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WITH VARIATIONS AND NOTES

EIGHTH EDITION

BY

F. W. PEARSON, M.A.(Oxon), LL.B.(Lond.), B.C.L.

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PREFACE.

In the preparation of the Eighth Edition of this work, the principles of arrangement observed in the seventh edition have been, in general, adhered to; but new statutes and judicial decisions, both numerous and important, since that edition appeared in 1911, have necessitated considerable alterations in the matter of the work. Obsolete precedents and notes have been removed and such new precedents and notes inserted as appeared to be required by the legal changes referred to.

The notes in this edition are more numerous and extensive than are found in its predecessors. Much care has been bestowed on their compilation in the hope that a reference to them and to the cases cited in them will furnish additional help to a draftsman making use of the precedents.

The Editor's task was completed in the autumn of 1925 ; but various causes delayed the publication of the book and rendered further revision necessary in order to bring the work up to date. This was undertaken by G. E. Hart, Esq. (Solicitor), who has added the new title, "Electricity," and has been responsible for passing the book through the press.

Throughout the whole book, the Editor has aimed at preserving that practical character of the precedents which has made this work for many years a familiar volume in the lawyer's library.

F. W. P.

4, New Square,
Lincoln's Inn,
November, 1927.

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PRACTICAL AGREEMENTS.

INTRODUCTION (*a*).

"An agreement is an act in the law whereby two or more persons declare their consent as to any act or thing to be done or forborne by some or one of those persons for the use of the others or other of them" (*b*).

It may be made by word of mouth or writing, or partly by word of mouth and partly by writing; and if it is in writing may be executed under hand only or under hand and seal. Agreements by word of mouth or by writing under hand are known as simple contracts, but agreements under seal are deeds and constitute specialty contracts, or covenants.

Agreements to be enforceable must in some cases be under seal and in some other cases must be in writing; but apart from these special cases the validity of an agreement does not depend on sealing or writing. The main distinction between an agreement under seal and a simple contract is that a simple contract is not enforceable unless there is some valuable consideration for the promises made by either party to the agreement (*c*) whereas an agreement under seal is as a rule binding even without consideration (*d*). Moreover, the remedy on simple contract debts may be barred in six years by the Limitation Act, 1623 (*e*), but the period of limitation in respect of specialty debts is twenty years (*f*).

The following contracts are as a rule unenforceable unless made by deed:—(1) Contracts not for valuable consideration; (2) Contracts

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(*a*) It is not proposed in this introduction to do more than draw attention to a few general points which require to be borne in mind by the draftsman in preparing agreements. For the law relating to contracts generally the reader is referred to the numerous text-books on the subject.

(*b*) *Foster* v. *Wheeler* (1887), 36 Ch. D. 695, at p. 698, *per* Kekewich, J., adopting the definition contained in Pollock on Contracts, 9th ed. p. 3; and see *Balfour* v. *Balfour*, [1919] 2 K.B. 571; *Rose and Frank Co.* v. *Crompton and Bros., Ltd.*, [1923] 2 K.B. 261, affirmed on this point, [1925] A.C. 445, 454.

(*c*) *Rann* v. *Hughes* (1778), 7 Term. Rep., 350 n. H.L.

(*d*) Contracts in restraint of trade form an exception to the rule. See Halsbury's Laws of England, title "Contract," vol. 7, p. 332. Volunteers cannot obtain specific performance of a mere covenant (see *Ellison* v. *Ellison* (1802), 6 Ves. 656; *Re Plumptre's Marriage Settlement, Underhill* v. *Plumptre*, [1910] 1 Ch. 609; *Macedo* v. *Stroud*, [1922] 2 A. C. 330, 338).

(*e*) 21 Jac. 1, c. 16, s. 3.

(*f*) Civil Procedure Act, 1833 (3 & 4 Will. 4, c. 42), s. 3; and see Halsbury's Laws of England, title "Limitation of Actions," vol. 19, p. 77.

by corporations; (3) Leases for more than three years (*g*); (4) Assignments and surrenders of leases; and (5) assignments of sculpture. But this rule is subject to many exceptions and modifications in particular cases (*h*).

The following contracts require for their proof to be evidenced by some memorandum or note thereof in writing signed by the party to be charged or his duly authorised agent:—(1) Contract by an executor or administrator making himself personally liable for a debt of the testator or intestate; (2) Contract to become liable for the debt, default or miscarriage of another person; (3) Contract upon the consideration of marriage; (4) Contract not to be performed within one year from the making thereof (*i*); (5) Contract for sale or other disposition of land or any interest in land (*j*). A contract for the sale of goods of the value of £10 and upwards is not enforceable unless the purchaser accepts and receives part of the goods sold or gives something in earnest to bind the contract or in part payment or the party to be charged or his agent signs some note or memorandum in writing of the contract (*k*). There are other particular contracts which must be evidenced by writing (*l*).

If under seal the instrument is almost always formal, otherwise agreements do not require any set form of words, it being sufficient if the names of both parties appear, the objects to be effected pointed out, a valid consideration shown, and the document duly signed by the party to be charged therewith. In commercial transactions agreements are not only often made by letter, but even by telegram; in the former case doubts are apt to arise whether the letters standing alone are evidence of a complete contract in the sense of containing a definite offer and an unqualified acceptance (*m*), and to solve this the whole correspondence must be looked at; whilst in the latter case mistakes in the transmission deprive the contract of any binding effect (*n*), and difficulties may arise as to the sufficiency of the signature (*o*).

In practice it is most desirable so far as possible to express the intention of the parties in correct legal language, to avoid punctuation, and to observe a certain uniformity of plan. By these means the document will be more readily understood, more readily referred to, and a more efficient

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(*g*) Leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be obtained without taking a fine can be created by parol (Law of Property Act, 1925, s. 54 (2)).

(*h*) See Halsbury's Laws of England, title "Contract," vol. 7, p. 360.

(*i*) Statute of Frauds (29 Car. 2, c. 3), s. 4.

(*j*) Law of Property Act, 1925 (15 Geo. 5, c. 20) s. 40 (1); but the section does not affect the law relating to part performance or sales by the Court (*ibid.* s. 40 (2)).

(*k*) Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 4. See *Behnke* v. *Bede Steam Shipping Co.* (1927), 96 L. J. K. B. 325 (difference between part payment and a deposit).

(*l*) On the subject generally, see Halsbury's Laws of England, title "Contract," vol. 7, p. 361 *et seq.*

(*m*) *Bristol, Cardiff, &c., Bread Co.* v. *Maggs* (1890), 44 Ch. D. 616; *Bellamy* v. *Debenham* (1890), 45 Ch. D. 481, [1891] 1 Ch. 412.

(*n*) *Henkel* v. *Pape* (1871), L. R. 6 Ex. 7.

(*o*) *Godwin* v. *Francis* (1870), L. R. 5 C. P. 295; *McBlain* v. *Cross* (1871), 25 L. T. 804; *Cohen* v. *Roche*, [1927] 1 K. B. 169. As to the effect of posting or telegraphing an acceptance, see *Henthorn* v. *Fraser*, [1892] 2 Ch. 27; 61 L. J. Ch. 373; *Bruner* v. *Moore*, [1904] 1 Ch. 305; Halsbury's Laws of England, title "Contract," vol. 7, p. 352 *et seq.*, and the English and Empire Digest, vol. 12, p. 75.

instrument for the purpose intended, and, in the process of drafting, necessary stipulations will not be so easily omitted, nor contingencies overlooked.

The usual commencement of an agreement is "This agreement," or "An Agreement," but sometimes, and particularly when under seal, the more lengthy expression "Articles of Agreement" is used. The heading "Memorandum of Agreement" should, in strictness, be reserved for documents intended only to indicate the terms of an agreement to be afterwards entered into, but in practice this distinction is often disregarded (*p*).

The date should generally come next, though it may often conveniently be placed at the end.

Then should follow the description of the parties. The names, residences, and occupations of all parties should be accurately given, and when brevity is desired, each party may be subsequently indicated by reference to the character in which he enters into the agreement, *e.g.* as "vendor," "purchaser," "mortgagor," or "mortgagee," merely by adding after the description of his residence and occupation the words, "hereinafter called the vendor," or as the case may be. Where the parties are so described, care is, however, required in copying, as mistakes are apt to occur, especially in the case of the words "mortga*gor*" and "mortga*gee*."

As regards the order in which the parties are placed: In agreements with a view to the conveyance of property, as in purchases, mortgages, leases, etc., the names of the grantors, mortgagors, or lessors seem conveniently to come first; whilst in agreements for exchanges, partitions, or arbitrations, the same order should, if possible, be observed as that in which the parties will be placed in the subsequent deed. This, however, is not always practicable, inasmuch as such agreements are often made between persons who are entitled merely to equitable interests, the concurrence of incumbrancers, trustees, and other persons having legal estates in the property being subsequently obtained to the instruments executed in pursuance of such agreements. In any case, the order adopted at the commencement should be maintained throughout the agreement.

Unless an agreement is of a personal nature, involving the skill and discretion of the contracting party, it will not be determined by his death, but will bind his representatives as such, whether they are mentioned or not. Furthermore, in the absence of such personal element, the agreement may be assigned by him without the consent of the other party, though assigns are not mentioned; but this will not *per se* discharge the assignor from liability under the agreement (*q*). After the 31st of December, 1925, covenants relating to land of the covenantee are deemed to be made with the covenantee and his successors in title and the persons deriving title under him or them (*r*); and similarly covenants relating to

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(*p*) As to deeds see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 57.

(*q*) *British Waggon Co.* v. *Lea* (1880), 5 Q. B. D. 149; *Tolhurst* v. *The Associated Portland Cement Manufacturers* (1900), *Limited*, [1903] A. C. 414; *Fratelli Sorrentino* v. *Buerger*, [1915] 1 K. B. 307; [1915] 3 K. B. 367.

(*r*) Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 78, repealing the Conveyancing Act, 1881 (44 & 45 Vict. c. 47), s. 58, but without prejudice to covenants to which s. 58 applied.

land of the covenantor (unless a contrary intention is expressed) are deemed to be made by the covenantor on behalf of himself, his successors in title and the persons deriving title under him or them (*s*). A contract under seal made or implied since the 31st of December, 1881, in the absence of an expressed contrary intention binds the real estate as well as the personal estate of the covenantor (*t*), and if made with two or more jointly to pay money or make a conveyance, or do any other act implies an obligation to do the act for the benefit of the survivor or survivors, and any other person to whom the right to sue on the contract devolves, and where it is made or implied after the 31st of December, 1925, it is deemed to be several as well as joint (*a*). Where, however, the contract relates to some future acts to be done, or moneys to be paid on the death of a person, it is sometimes more logical to refer in the body of the instrument to the successors in title or representatives of such person.

Any covenant or agreement entered into by a person with himself and another or others can be enforced as if it had been entered into with the other or others alone (*b*).

When the contract is made by a solicitor or agent, as is sometimes done for the sake of securing secrecy, the party so contracting should take care to have an express written authority to do so. If there be no reason for secrecy, then, after his name, address, and occupation, it is proper to show the character in which he acts, thus—" as Solicitor—*or* ' Agent '—for and on behalf of [*the principal*], of, &c."

With regard to the rest of the document, uniformity, simplicity, and brevity will be best attained by following the order in which the subject-matter would seem naturally to fall, viz.: commencing, when necessary by way of introduction, with recitals, and next inserting the particular promises by each party in order, reserving to the end general provisions relating to arbitration, valuations, &c.

As a rule recitals are not required in an agreement: even in cases of complexity, matters requiring explanation can be shortly alluded to in the clauses dealing with the portion of the contract relating to them. But in some cases concise preliminary statements are of assistance in elucidating the object and scope of the agreement.

In preparing agreements it is of primary importance that the intention of the parties should be set forth explicitly, so as, if possible, to leave nothing open to question or doubt, although, in some cases, it may be difficult to attain this ideal when dispatch or extreme conciseness is required, or imperfect instructions are given. The words " proper " and "reasonable," for example, necessarily lead to the questions—what is proper ? or, what is reasonable ? and although they have received certain constructions in some cases, yet, as circumstances vary, they necessarily vary likewise. These words have therefore been omitted as much as possible in the following forms, the acts or things they are intended to represent being expressed instead.

Agreements should be signed, when practicable, by all the parties to them, or by their duly authorised agents, as difficulties otherwise arise

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(*s*) Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 79.
(*t*) *Ibid.* s. 80. (*a*) *Ibid.* s. 81. (*b*) *Ibid.* s. 82.

in proving assent or recognition by the non-signing party; and if the agreement is not in the handwriting of the party to be charged, and concludes with words indicating an intention that the signature should be subscribed, as, for example, "As witness our hands," the signature must be added (*c*). In the case of agents it is important that they should be clothed with the requisite authority, and if the agreement is under seal, the agent should be authorised by deed in order to render his principal liable (*d*), and a principal should be careful not to employ an agent by parol to purchase property, or he may find himself in a difficulty as to obtaining a conveyance to himself, if the agent purchases in his own name, with his own money, takes a conveyance to himself, and denies the agency (*e*). If the agent desire to avoid liability himself as principal he should be careful to sign per procuration (*f*), and if the words "as agent" qualify his signature it will require extremely plain words in the body of the agreement to impose personal liability on him (*g*). When executed under a power of attorney the agreement should be expressed to be made throughout in the name of the principal, and the person signing under the power of attorney should sign the principal's name, adding: "by his attorney [*the attorney's name*]." But such person may, if he thinks fit, execute and do any assurance instrument or thing in and with his own name and signature and his own seal by the authority of the donor of the power, and such assurance instrument and thing is as effectual as if executed or done in the name and with the signature and seal of the said donor (*h*). No particular form of words is necessary (*i*), and it is not essential for the attorney to express that he executes as attorney, though if he executes as principal he may incur personal liability, even where he is described in the body of the instrument as covenanting for and on behalf of another, as this does not exclude both being liable (*j*); it is therefore prudent for the attorney to add some words indicative of his true position. In some instances the consent of an infant may be thus given by an agent on his behalf (*k*).

Special rules apply to contracts entered into by or on behalf of a company or corporation. In the case of limited companies any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the company in writing under the common seal of the company, and any contract which if made between private persons would be by law required to be in writing signed by the person to be charged

(*c*) See an agreement defective in this respect set out at p. 749 of *Hubert* v. *Treherne* (1842), 3 M. & G. 743.

(*d*) See *Berkeley* v. *Hardy* (1826), 5 B. & C. 355, for an indenture of lease defective in this respect owing to the technical rules of English law.

(*e*) *James* v. *Smith*, [1891] 1 Ch. 384; *Rochefoucauld* v. *Boustead*, [1897] 1 Ch. 196.

(*f*) See *Leadbitter* v. *Farrow* (1816), 5 M. & S. 345, at p. 349.

(*g*) *Gadd* v. *Houghton* (1876), 1 Ex. D. 357; *The Universal Steam Navigation Co.* v. *Jas. McKelvie & Co.*, [1923] A. C. 492.

(*h*) Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 123, and see *Re Whitley Partners, Limited* (1886), 32 Ch. D. 337.

(*i*) See *Wilks* v. *Back* (1802), 2 East, 142.

(*j*) See *Appleton* v. *Binks* (1804), 5 East, 148.

(*k*) See *Dennison* v. *Jeffs*, [1896] 1 Ch. 611; and Law of Property Act, 1925, s. 129 (infant married woman).

therewith (*l*) may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and contracts so made are effectual in law to bind the company and its successors and all other parties thereto, their heirs, executors, or administrators, as the case may be (*m*).

Practically identical provisions are enacted in respect of companies incorporated by special Acts of Parliament (*n*). In the case of corporations generally, except where a contract is by statute required to bear the seal of the corporation (*o*), the other contracting party may be able to enforce a contract with a corporation where there has been part performance on adoption of the contract.

Agreements are usually executed in duplicate, each party signing one of the duplicates, and such duplicates being exchanged. It is not essential that the signature of a party should be attested by a witness even where the contract is under seal (*p*) except in certain cases. When an agent is acting on behalf of a company the testimonium clause may run thus: "In witness whereof the said [*agent*] as agent for or on behalf of the said [*company*] and the said [*other contracting party*] have hereunto set their hands the day and year first above written." When parties are executing an agreement on their own behalf the usual form of testimonium is: "In witness whereof the said [*parties*] have hereunto set their hands [and seals] the day and year first above written," or, if the agreement is framed in the first person, "As witness our hands and seals."

Although evidence of a subsequent parol agreement, even though itself incapable of being sued upon, is admissible to prove rescission of an agreement required by law to be in writing (*q*), such evidence cannot be given to prove a variation of the terms of the written agreement (*r*). The subsequent acts of the parties to an agreement are not admissible to vary its terms, but they may prevent one of the parties from insisting upon a strict performance of the original agreement (*s*).

In all deeds, contracts and other instruments executed or coming into operation after the 31st of December, 1925, unless the context otherwise requires, "month" means "calendar month" (*t*).

Special attention should be given to the stamping of agreements, and in the notes to each of the following precedents the appropriate stamp is stated.

(*l*) See, for instance, Statute of Frauds (29 Car. 2, c. 3), s. 4; Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 4; Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 40.

(*m*) Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69), s. 76.

(*n*) Companies Clauses Consolidation Act, 1845 (8 Vict. c. 16), s. 97.

(*o*) *E.g.* under the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 174; *Nixon* v. *Erith U.D.C.*, [1924] 1 K. B. 819; and *Higgins, Ltd.* v. *Northampton Corporation*, [(1927] 1 Ch. 128. Generally as to the contracts of a corporation, see Halsbury's Laws of England, title "Corporations," vol. 8, pp. 379–386.

(*p*) See Halsbury's Laws of England, title "Deeds," vol. 10, p. 387.

(*q*) See note (*l*), *supra*.

(*r*) *Vezey* v. *Rashleigh*, [1904] 1 Ch. 634; *Morris* v. *Baron & Co.*, [1918] A. C. 1 *British and Benington's, Ltd.* v. *N. W. Cachar Tea Co.*, [1923] A. C. 48; *Rose and Frank Co.* v. *Crompton and Bros., Ltd.*, [1925] A. C. 445.

(*s*) *Hughes* v. *Metropolitan Railway Co.* (1877), 2 App. Cas. 439; *Morrell* v. *Studd and Millington*, [1913] 2 Ch. 648.

(*t*) Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 61; but see *Schiller* v. *Petersen & Co.*, [1924] 1 Ch. 394.

PRECEDENTS.

ADVOWSON.

1.

AGREEMENT for Sale of Advowson by absolute Owner. Variation for Sale by Tenant for Life (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the fee simple free from incumbrances of ALL THAT advowson and right of presentation of and in the rectory and parish church of —— in the county of ——.

2. The price for the said purchase shall be £—— whereof £—— has this day been paid by the purchaser as a deposit to the vendor [*or if the vendor is tenant for life,* to [*stakeholder*] of &c. as a stakeholder].

3. The title shall commence with a conveyance on sale dated the —— day of —— and made between [*parties*] *or* with the will dated the ——

(*a*) Stamp 6*d*. Under the Benefices Act, 1898 (61 & 62 Vict. c. 48), a transfer of a right of patronage of a benefice is invalid unless (1) it is registered in the registry of the diocese within one month from the date of transfer or such extended time as the bishop allows, (2) it transfers the whole interest of the transferor in the right except as in the Act provided, and (3) more than twelve months have elapsed since the last institution or admission to the benefice. Agreements for the exercise of a right of patronage in favour of or on the nomination of any particular person are invalid ; but it seems that if a vacancy occur before completion, the purchaser, on accepting the vendor's title, can still require the vendor to present the purchaser's nominee (*Fox* v. *Chester* (*Bishop*) (1829), 3 Bli. N. S. 155, 157 ; *Nicholson* v. *Knapp* (1838), 9 Sim. 326 ; *Dowling* v. *Maguire* (1834), L. & G. temp. Plunk. 1, 30 ; *Greenslade* v. *Dare* (1853), 17 Beav. 502). Sales of a next presentation except where such next presentation is the only interest of the vendor in the advowson are invalid (Benefices Act, 1898, s. 1, sub-s. (1) (*b*)) ; and under the Benefices Act, 1898 (Amendment), Measure, 1923 (No. 1 of 14 & 15 Geo. 5), s. 1, rights of patronage are made incapable of sale after the next two vacancies subsequent to the passing of the measure, except in the case of assignments of patronage under the New Parishes Acts or of sales of land to which the rights are appendant ; and an absolute owner may by declaration under seal registered in the diocesan registry render his rights of patronage similarly incapable of sale (*ibid.* s. 2) ; (see Benefices Rules, 1925). The restrictions imposed by the said Act and amending measure are not affected by the Law of Property Act, 1925 (15 Geo. 5, c. 20) ; see s. 201 (2) of latter Act. On the subject generally, see Halsbury's Laws of England, title "Ecclesiastical Law," vol. 11, p. 582 *et seq.*

day of —— of a testator who died on the —— day of —— *or as the case may be,* and the prior title shall not be inquired into (*b*).

4. The purchaser shall send his requisitions and objections in writing to the said title to the office at No. —— Street —— of Mr. —— the vendor's solicitor within [14] days from the delivery of the abstract of the vendor's title and any further objections or requisitions arising out of the vendor's replies within [5] days from the delivery of such replies. Subject to any requisition or objection so delivered, the title shall be deemed to be accepted. The abstract, though otherwise defective, shall be deemed complete if it gives information suggesting any such requisition or objection. For the purposes of this clause time shall be of the essence of the contract.

5. No error, misdescription, or omission shall entitle the purchaser [or the vendor] to annul the sale or demand compensation.

6. If the vendor shall be unable or unwilling to comply with or remove any requisition or objection he may give the purchaser notice in writing to withdraw the same and if the same is not unconditionally withdrawn within [7] days from the date of such notice the vendor may by a further notice in writing rescind the sale and thereupon the vendor shall return [*or* release] the deposit [and the interest (if any) earned thereby] to the purchaser who shall accept the same in full satisfaction of all claims for interest, costs, compensation, or otherwise, and shall return to the vendor all documents relating to the sale furnished to him by the vendor.

7. The purchase shall be completed on the —— day of —— next (*c*) at the office of the vendor's said solicitor at which time and place the purchaser shall pay to the vendor [*or* to the trustees of the settlement (*d*) under or by virtue of which the vendor is tenant for life] the residue of the said purchase money [and release the said deposit to such trustees] and the vendor and all other necessary parties (if any) will execute a proper assurance of the property to the purchaser. Such assurance to be prepared and perfected save as to the execution thereof by the vendor [and the said trustees] by and at the expense of the purchaser and to be sent to the vendor's said solicitor for approval [10] days at least before the said —— day of ——. All outgoings up to the —— day of —— shall be borne by the vendor.

(*b*) In the absence of special stipulation, the vendor must show title for one hundred years (3 & 4 Will. 4, c. 27, s. 30; Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 44 (1)).

(*c*) Payment of the purchase money cannot be postponed for more than three months from the date of the agreement (Benefices Act, 1898 (61 & 62 Vict. c. 48), s. 1, sub-s. 3 (*b*)).

(*d*) On the coming into operation of the Settled Land Act, 1925 (15 Geo. 5, c. 18), the will constituting the settlement becomes the trust instrument (*ibid.* s. 6) and the trustees of the settlement must, on the request of the vendor, execute a principal vesting deed declaring the legal estate in the advowson to be vested in the vendor in fee simple upon the trusts of the will and themselves to be trustees of the settlement for the purposes of that Act. Unless and until this is done (at the cost of the trust estate, *ibid.* s. 8 (2), and not of the purchaser: (Law of Property Act (15 Geo. 5, c. 20), s. 42 (2)), the vendor cannot deal with the legal estate in fee simple (Settled Land Act, 1925, s. 13). The purchase money must be paid to the trustees of the settlement or into Court (*ibid.* s. 18 (1)).

8. If from any cause whatever other than the vendor's wilful default the residue of the said purchase money shall not be paid on the said —— day of —— the purchaser shall pay interest thereon at the rate of £[5] per cent. per annum until payment or until the expiration of three calendar months (*e*) whichever shall first happen.

8A. [The vendor who is selling as tenant for life under the statutory power in that behalf shall not be required to give any covenants for title except the statutory covenant implied by reason of his being expressed to convey as trustee.]

9. All documents relating to the title of the property sold and other property will be retained by the vendor [*or* the said trustees] who will give the usual statutory acknowledgment in respect of such of them as are in his [*or* their respective] possession.

10. If the right of presentation to the said rectory and parish church should on any account whatever devolve upon or be exercised by the Crown before the completion of this purchase such devolution or exercise shall not affect this agreement or entitle the purchaser to any compensation [*or* shall not annul this agreement, but the vendor will allow the purchaser to deduct from the balance of his said purchase money the value of such presentation to be ascertained by two arbitrators, one to be appointed by each party hereto or their umpire, pursuant to the Arbitration Act, 1889].

11. If the purchaser shall commit any breach of any stipulation herein contained the vendor may by notice in writing forfeit the said deposit and rescind the sale (*f*).

IN WITNESS whereof the said parties have hereunto set their hands the day and year first above written.

[*Signatures of vendor and purchaser.*]

ADOPTION OF CHILDREN.

2.

AGREEMENT for Adoption of Child by Widow paying the Parents an Annual Sum (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*adopting person*] of &c., widow (hereinafter called the adopting party) of the one part and [*parents of child*] of &c. (hereinafter called the parents) of the other part.

(*e*) See Benefices Act, 1898 (61 & 62 Vict. c. 48), s. 1 (3) (c), whereby an agreement for payment of interest until a vacancy or for more than three months is declared invalid. "Months" in a statute passed since 1850 mean "Calendar months" (Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 3).

(*f*) It is submitted that notwithstanding that "transfer" is defined in s. 1 (6) of the Benefices Act, 1898 (61 & 62 Vict. c. 48), so as to include an agreement for conveyance or assurance, this clause is not such an agreement for re-transfer of the right of patronage of a benefice as is declared invalid by s. 1 (3) (a) of the Act.

(*g*) Stamp 10*s.* in respect of the agreement to adopt, and bond, covenant, etc.,

WHEREAS the parents being in poor circumstances have requested the adopting party to adopt their infant son [*or* daughter] —— who was born on the —— day of —— they being satisfied (as they hereby acknowledge) that such adoption will be wholly for the benefit of the said infant (*h*)

NOW IT IS HEREBY AGREED as follows :—

1. From the date of these presents and at all times hereafter the said infant shall live with or under the care of the adopting party who shall have all such powers over and in respect of the said infant as if such infant were in fact the child of the adopting party.

2. The adopting party shall, at her own expense, clothe, maintain, support, and educate the said infant in the manner customary in the case of the children of persons of the same rank of life as the adopting party.

3. The infant shall be brought up in the religion of the Church of England [*or as the case may be, specifying the religion, or* in the religion of the adopting party].

4. The parents and each of them shall not in any way whatsoever communicate or attempt to communicate with the said infant or claim or attempt to remove the said infant from the care and custody of the adopting party or any schoolmaster or schoolmistress or other person to whom the adopting party shall for the time being have entrusted the care and custody of the said infant or in any way interfere or endeavour

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duty on the annual payment. This agreement has been inserted in this edition to meet cases in which an order cannot be obtained under the Adoption of Children Act, 1926 (16 & 17 Geo. 5, c. 29). See Butterworths' Twentieth Century Statutes, vol. 23, p. 137. Under this Act the High Court or, at the option of the applicant, a County Court or a Court of Summary Jurisdiction (s. 8 (1)) has power after the 1st of January, 1927 (s. 12 (2)), to make " an adoption order " authorising the adoption of an infant (s. 1 (1)). The application can be made by two spouses jointly but an order cannot be made upon the application of one of two spouses without the consent of the other (s. 2 (4)). The applicant must be resident and domiciled in England or Wales and the infant must be a British subject and so resident (s. 2 (5)). The applicant must also be not under 25 years of age nor less than 21 years older than the infant unless within the prohibited degrees of consanguinity (s. 2 (1)), and if the sole applicant is a male and the infant is a female there must be special circumstances to justify the making of the order (s. 2 (2)). The consents of the parents or guardians are required unless dispensed with by the Court (s. 2 (3)), and the Court must be satisfied that the parents understand that the order will permanently deprive them of parental rights and that the order will be for the welfare of the infant (s. 3). The Court may require the adopter by bond or otherwise to make satisfactory provision for an adopted child (s. 4). Neither the adopter nor any parent may receive any payment or reward in consideration of the adoption of an infant except with the sanction of the Court (s. 9). As to the effect of an adoption order see s. 5. Apart from this Act a father cannot legally bind himself to renounce the care and custody of his children (*Hamilton* v. *Hector* (1871), 6 Ch. App. 701) except to the mother by agreement in a separation deed (36 & 37 Vict. c. 12, s. 1 ; *Re Besant*, 11 Ch. D. 508) ; but the Court is not bound to restore such custody to the parent unless it is for the benefit of the infant (*R.* v. *Gyngall*, [1893] 2 Q. B. 232 ; *McDonald* v. *Wright* (1905), 7 F. 568) ; *R.* v. *Walker* (1912), 28 T. L. R. 342, 375 ; *re Mathieson* (1918), 87 L. J. Ch. 445. See also *Stevenson* v. *Florant*, [1927] A. C. 211.

(*h*) See *In re Thain, Thain* v. *Taylor*, [1926] Ch. 676.

to interfere by legal proceedings or otherwise with the control or discretion as to maintenance education or otherwise exercised by the adopting party as regards the said infant.

5. (*i*) If and so long as the said infant shall be living and reside under the care of the adopting party or any guardian or guardians appointed under clause 6 hereof and shall not have attained the age of twenty-one years and the parents or either of them shall be living and shall not have committed any breach of any stipulation herein contained the adopting party, her executors or administrators, will pay to the parents on their joint receipt or the survivor of them on his or her sole receipt an annual sum of £—— by quarterly payments of £——, on the usual quarter days the first such payment to be made on the quarter day next after the date of these presents.

6. In the event of the death of the adopting party during the infancy of the said infant the adopting party shall be entitled to appoint by her will or codicil a guardian or guardians for the said infant and the said guardian or guardians shall have the same rights in respect of the said infant as such guardian or guardians would have had if they had been legally appointed such guardian or guardians as aforesaid.

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

3.

AGREEMENT for Adoption of Two Children by a Married Couple who Agree to Settle Property on the Children (*j*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parents*] of &c. (hereinafter called the parents), of the one part and [*adopting parties*] of &c. (hereinafter called the adopting parties) of the other part.

WHEREAS the parents are about to live permanently out of the United Kingdom and have requested the adopting parties to adopt their infant son and daughter —— who were respectively born on the —— day of —— and the —— day of ——

AND WHEREAS the adopting parties are desirous of complying with such request and of making such provision for the said infants as is hereinafter contained

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(*i*) In practice, the adopting party either makes annual payments to the parents or agrees to make a settlement on the infant, in order to induce the parents to waive their legal rights. If the parents are not of good character the former plan is preferable as the result of interference would be to deprive the parents of a substantial benefit. Any such payment may prejudice the adopting party on a subsequent application for an adoption order under the Adoption of Children Act, 1926 (see note (*g*) on pp. 9, 10, *supra*).

(*j*) Stamp 10*s*. deed stamp and settlement duty at 5*s*. per cent. of the stock agreed to be settled: see note (*g*), pp. 9, 10, *supra*.

AND WHEREAS all parties hereto consider that it will be greatly to the advantage of the said infants that they should be adopted by the adopting parties on the terms of this agreement

NOW IT IS HEREBY AGREED as follows :—

1. The said infants shall respectively live with the adopting parties as from the —— day of —— until the said infants shall respectively attain the age of twenty-one years or be married.

2. The adopting parties shall have the entire care and custody of the said children and shall at their own expense feed, clothe, maintain, and educate them in a manner suitable for the children of persons in the same rank of life as the adopting parties.

3. The said infants shall be brought up as members of the [Roman Catholic, *or as the case may be*] religion in which they have respectively been baptised.

4. The parents shall not seek to deprive the adopting parties of such care and custody as aforesaid, or interfere in the maintenance or education of the said infants or either of them, but shall have full liberty of corresponding with the said infants and during the visits of the parents to the United Kingdom shall have reasonable access to the said infants at the house for the time being of the adopting parties but not elsewhere without the written consent of the adopting parties.

5. The said [*the male adopting party*] hereby agrees with the parents that he will forthwith transfer into the joint names of himself and his said wife a sum of £—— [India three per cent.] stock and that he and his said wife shall as from the date of such transfer hold such stock or the investments for which the same may from time to time be varied upon trust to pay and retain the income thereof for his own benefit during his life and after his death to pay the same income to his said wife if she shall survive him during her life and subject thereto will hold the capital and income thereof if the parents or one of them shall not have previously committed some breach of this agreement upon trust for such of the said infants as shall attain the age of 21 years, or if female marry, and if more than one in equal shares. But if the parents or one of them shall have committed any such breach as aforesaid the said capital and income shall remain and form part of the estate of the said [*male adopting party*] (*jj*).

6. In the event of the death of the survivor of the adopting parties in the lifetime of the parents or the survivor of them, all rights of custody in respect of the said infants shall revive in the parents or the survivor of them.

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

(*jj*) See note (*i*) on p. 11, *supra*.

4.

UNDERTAKING by Foster Parent to bring up a Child in a Home (*k*).

—— Poor Law Union.
—— Boarding out Committee.
[*Name of child.*]
[*Name of foster parent.*]

I [*foster parent*] of &c. do hereby engage with the Guardians of the above named Poor Law Union in consideration of my receiving the sum of —— shillings per week to bring up [*child*] aged —— years on the —— day of —— last as one of my own children and to provide him [*or* her] with proper food, lodging, and washing, and to endeavour to train him [*or* her] in habits of truthfulness, obedience, personal cleanliness, and industry; to take care that the child shall attend duly at church [*or* chapel], and school; that in consideration of my receiving the sum of —— per quarter I will provide for the proper repair and renewal of the child's clothing; that in case of the child's illness I will forthwith report such illness to the above-named boarding-out committee; and that I will at all times permit the child to be examined and the home and the child's clothing to be inspected by an inspector of the Ministry of Health by a member of the boarding-out committee or by any person authorised for that purpose by the guardians by the boarding-out committee or by the Ministry of Health. I do also hereby engage upon the demand of the Clerk to the Guardians or of a person duly authorised in writing by the guardians or the boarding-out committee to give up possession of the child. [*Any other matter agreed upon may here be stated.*]

Dated this —— day of ——

[*Signature in full and address of foster parent.*]

[*Signature and address of witness to signature of foster parent.*]

N.B.—Communications to the guardians to be addressed ——

5.

ACKNOWLEDGMENT by Foster Parent of receipt of Child and Clothing (*l*).

—— Poor Law Union.

I [*foster parent*], of &c. hereby acknowledge that I have this day received [*child*], aged —— years, from the guardians of the poor of

(*k*) No stamp. The above form is official and applicable whether the home is within or beyond the limits of, the Poor Law Union; see the Boarding-Out Order, 1911 (S. R. & O. 1911, No. 958), art. vii (7).

(*l*) No Stamp. See Boarding-Out Order, 1911 (S. R. & O. 1911, No. 958), art. vii (8).

the above-named poor law union, on the terms and conditions contained in the annexed undertaking, and that I have received for the use of the said [*child*] the articles of clothing set out in the list appended hereto.

Dated this —— day of ——

LIST OF CLOTHING.

[*Set out articles in detail.*]

[*Signature and address in full of foster parent.*]

[*Signature and address in full of witness to signature of foster parent.*]

ADVERTISEMENTS.

6.

AGREEMENT for Use of a Hoarding for Advertising Purposes (*m*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*owner of hoarding*] of &c. (hereinafter called the proprietor) of the one part and [*advertisement agents*] of etc. (hereinafter called the advertisers) of the other part

WHEREAS the proprietor has lately erected a hoarding on a plot of land situate in —— Street, in the City of ——, next adjoining on the [west] side of certain premises, being No. —— in —— Street, aforesaid.

NOW IT IS HEREBY AGREED as follows:—

1. The advertisers shall during the continuance of this agreement have the exclusive right of affixing posters and other advertisements on the said hoarding, fronting —— Street, aforesaid subject to the stipulations herein contained.

2. No advertisement shall be affixed to the hoarding which, in the opinion of the proprietor, is of an indecent or objectionable character and the advertisers shall not do or permit to be done any act or thing in regard to the said hoarding, or the advertisements for the time being affixed thereto, by reason of which the proprietor may become liable to proceedings at the instance of the local authority or any person or persons whomsoever.

3. The advertisers shall pay to the proprietor a sum of £—— for every calendar month in advance during the continuance of this agreement, the first such payment to be made immediately after the signing of this agreement, and each subsequent payment on the —— day of —— in every such month.

(*m*) Stamp 2*s.* 6*d.* on every £5 of the monthly rent. See generally the Advertisements Regulation Acts, 1907 (7 Edw. 7, c. 27) and 1925 (15 & 16 Geo. 5, c. 52); *Kerrison* v. *Smith*, [1897] 2 Q. B. 445, and *United Bill Posting Co.* v. *Somerset C.C.* (1926), 95 L. J. (K. B.) 899.

4. The proprietor will at all times during the continuance of this agreement keep the said hoarding in such a condition of repair and stability, as shall be reasonably necessary for the effective display of advertisements thereon, but the advertisers shall make good all damage done to the said hoarding by themselves, their servants or agents. If at any time the said hoarding shall be wholly or partly demolished by accidental causes the proprietor will re-erect or reinstate the same, and until such re-erection or re-instatement, the said monthly payments shall be reduced to £—— per calendar month, but the advertisers shall have no claim against the proprietor for damages on the ground of such demolition or otherwise.

5. This agreement may be determined by either party by giving to the other two calendar months' notice in writing expiring on one of the days fixed for payment of the said monthly sum. If the advertisers become insolvent or make default in payment of the said monthly sum for one week after the same is due [or if the local authority shall require the proprietor to remove the said hoarding] the proprietor may determine this agreement by [one] day's written notice.

6. On the determination of this agreement the advertisers shall forthwith remove or obliterate all advertisements affixed by them on the said hoarding, and if they make default in so doing for [48] hours after such determination the proprietor may himself remove or obliterate the same and recover the cost of so doing from the advertisers as liquidated damages.

7. Any notice may be sent through the post to the last known place of address of the party to whom it is given.

IN WITNESS, &c.

[*Signatures of all parties.*]

7.

AGREEMENT for Erection by Advertiser of an Advertisement Hoarding on Private Land (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*advertiser*] of &c. (hereinafter called the advertiser) of the other part

WHEREBY IT IS AGREED as follows:—

1. The advertiser shall have full right and liberty forthwith to erect and during the continuance of this agreement maintain a hoarding upon a plot of vacant land situate on the —— side of —— Street in the city of —— of which land the owner is seised in fee simple in possession.

(*n*) Stamp 2*s.* 6*d.* for every £5 of the rent calculated as an annual rent: see *Lewis* v. *Inland Revenue Commissioners*, [1898] 2 Q. B. 290. Such an agreement amounts to a licence only and does not create the relationship of landlord and tenant: *Wilson* v. *Tavener*, [1901] 1 Ch. 578; *Provincial Bill Posting Co.* v. *Low Moor Iron Co.*, [1909] 2 K. B. 344; *King* v. *Allen (David) & Sons, Billposting, Ltd.*, [1916] 2 A. C. 54; 114 L. T. 762; and contrast *Joel* v. *International Circus and Christmas Fair* (1920), 124 L. T. 459.

2. The said hoarding shall be well and substantially built of wood and shall not exceed —— feet in height or —— feet in length and shall at all times during the continuance of this agreement be maintained by the advertiser in good and sufficient repair.

3. The advertiser shall during the continuance of this agreement have the right to post and affix advertisements to the said hoarding and shall at all reasonable times have the right of entry upon the said land by himself his servants and agents for the purpose of erecting or maintaining the said hoarding, and affixing or removing advertisements to or from the same.

4. The said hoarding shall be erected fronting —— Street aforesaid but in such a position as the owner shall approve and the owner shall retain and enjoy the possession and use of the said land for his own benefit, but so that he shall not do or suffer anything to be done thereupon whereby the stability of the said hoarding may be imperilled or the advertisements affixed thereto may be obscured or rendered less visible to persons passing along —— Street aforesaid.

5. No libellous, indecent, or objectionable advertisement shall be affixed to the said hoarding.

[6. The advertiser will if required by the owner affix to the said hoarding in some conspicuous part thereof fronting —— Street aforesaid any advertisements from time to time supplied to him by the owner and designed to advertise the owner's business of —— and allow the same to remain thereon so long as the owner shall desire and free of charge to the owner PROVIDED that the advertiser shall not be required to allow for such advertisements any larger space on the said hoarding than a space of —— feet by —— feet.]

7. The advertiser shall pay to the owner £—— on the signing of this agreement and £—— on every quarter day during the continuance of this agreement.

8. The advertiser shall pay all rates taxes and outgoings whatsoever which shall be assessed imposed or become payable in respect of the said hoarding.

9. The advertiser will duly comply with all orders and bye-laws for the time being in force of the —— Council [*the local authority*] and will keep the owner indemnified against all actions, claims and demands which may be made or brought upon or against him in respect of the erection or continuance of the said hoarding, or in respect of any advertisement [except the owner's own advertisements] affixed thereto.

10. The advertiser will cause as little damage to the said land as reasonably may be in the exercise of any right or liberty hereby given to him, and in every case will remedy any damage done to the said land as speedily as possible.

11. This agreement shall continue in force for [three] years from the date hereof, unless otherwise determined, as hereinafter mentioned.

12. If the advertiser shall make default for —— weeks in payment of any quarterly sum hereby agreed to be paid, or shall become insolvent

or commit any breach of any stipulation herein contained, or if the said —— Council shall require the said hoarding to be removed the owner may give the advertiser —— week's written notice to determine this agreement.

13. Upon the determination or expiration of this agreement the advertiser will pay to the owner a due proportion of the said quarterly payments to the date thereof and will within [one] week remove the said hoarding and restore the surface of the said land to its original condition, and in default of his so doing the said hoarding shall become the absolute property of the owner, who shall be entitled to deal with the same as he thinks fit, without prejudice to any claim he may have against the advertiser for damages or otherwise, and time shall be of the essence of the contract for the purpose of this clause.

14. The advertiser shall not be entitled to assign the benefit of this agreement, without the written consent of the owner.

IN WITNESS, &c.

[*Signatures of both parties.*]

APPRENTICES.

8.

DEED for Apprenticing an Infant to a Business (*o*).

THIS DEED OF APPRENTICESHIP made the —— day of —— BETWEEN [*master*] of &c. (hereinafter called the master) of the first part [*father of apprentice*] of &c. (hereinafter called the father) of the second part, and [*apprentice*] of &c. the son of the father (hereinafter called the apprentice) of the third part,

WITNESSETH as follows :—

1. The apprentice of his own free will and with the consent of the father hereby agrees to be bound as apprentice to the master in the trade of —— and to serve the master for a term of —— years from the date of these presents.

(*o*) Stamp 2*s*. 6*d*. The apprentice should execute the deed as consenting to be bound apprentice (*R.* v. *Arnesly* (1820), 3 B. & Ald. 584), and, notwithstanding his infancy, is bound by the covenant contained therein if the contract as a whole is beneficial to him (*Roberts* v. *Gray*, [1913] 1 K. B. 520; *Dillingham* v. *Harrison*, [1917] W. N. 305), but not otherwise (*Meakin* v. *Morris* (1884), 12 Q. B. D. 352). But an infant's covenant to serve cannot be enforced by an order for specific performance or injunction (*De Francesco* v. *Barnum* (1889), 43 Ch. D. 165; S. C. 1890, 45 Ch. D. 430). A provision for stoppage of wages during a lock-out is unreasonable (*Corn* v. *Matthews*, [1893] 1 Q. B. 310; *Meakin* v. *Morris*, *supra*); but a provision for stoppage of wages during the usual holidays and the days on which the master's business should be at a standstill through causes beyond his control does not invalidate the deed (*Green* v. *Thompson*, [1899] 2 Q. B. 1). It is a breach of contract for the master to discontinue any trade which he has agreed to teach to his apprentice (*Ellen* v. *Topp* (1851), 6 Exch. 424). As to enforcing apprenticeship agreements by workmen, see Employers and Workmen Act, 1875 (38 & 39 Vict. c. 90), ss. 6, 7 and 12.

2. In consideration of £—— paid as premium by the father to the master (the receipt of which sum the master hereby acknowledges) [*or, if the premium is payable by instalments,* In consideration of the sum of £—— to be paid to the master by the father as hereinafter agreed], the master hereby covenants with the father and the apprentice respectively as follows :—

(1) To take the apprentice as his apprentice and throughout the said term to teach and instruct the apprentice to the best of the power skill and knowledge of the master, or cause him to be efficiently taught and instructed in the trade [*or* trades] (*p*) of —— as carried on by the master and in all things appertaining thereto PROVIDED that the apprentice shall obey all lawful commands of the master and commit no breach of any covenant by the apprentice herein contained (*q*).

(2) To pay the apprentice —— shillings a week during the first year of the apprenticeship, and —— shillings a week during the second and every subsequent year of the apprenticeship (*r*).

(3) To provide the apprentice during the apprenticeship with good and sufficient board and lodging (*s*) [in the house of the master], washing, and medical attendance and medicines. [*or* To pay to the apprentice during the apprenticeship —— shillings a week in lieu of board, lodging, washing and medical attendance] and to furnish him with proper tools and materials for the purpose of instruction.

(4) Not to require the apprentice to work at the said trade[s] on Sundays or public holidays, or more than —— hours on Saturday, or more than —— hours during any other week day [*or* Not to require the apprentice to work on Sundays, public holidays or more than the usual number of hours for similar trades in the district], or, except between the hours of [5] o'clock a.m. and [5] o'clock p.m. on week days other than Saturdays (*t*) during the months from the last day of February to the 31st of October, and between the hours of 6 o'clock a.m. and 5 o'clock p.m. on week days other than Saturdays (*t*) during the months from the 31st of October to the last day of February with an allowance

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(*p*) It is prudent to specify all trades carried on by the master as incidental to his regular trade : *e.g.* a painter may be a paperhanger, a plumber, and a glazier as well.

(*q*) See *Westwick* v. *Theodor* (1875), L. R. 10 Q. B. 224. A master has no general right to dismiss an apprentice for misconduct (*Wise* v. *Wilson* (1844), 1 Car. & K. 662; *Winstone* v. *Linn* (1823), 1 B. & C. 460; *Waterman* v. *Fryer*, [1922] 1 K. B. 499; but he may dismiss an apprentice for habitual thieving (*Learoyd* v. *Brook*, [1891] 1 Q. B. 431) or refusing to learn (*Raymond* v. *Minton* (1866), L. R. 1 Ex. 244), or running away and enlisting (*Hughes* v. *Humphreys* (1827), 6 B. & C. 680; *Cuff* v. *Brown* (1818), 5 Price, 297).

(*r*) Employment under a contract of apprenticeship without any money payment is not employment within the meaning of the Unemployment Insurance Act, 1920 (see Sched. I, Part I (*a*)) nor the National Insurance Act, 1924 (see Sched. I, Part I (*a*)).

(*s*) This covenant may be enforced by fine or imprisonment (Conspiracy and Protection of Property Act, 1875 (38 and 39 Vict. c. 86), s. 6).

(*t*) If the weekly half holiday in the district occurs on any day other than Saturday, the particular day should be specified.

of the usual hours for meals [*or specify the hours to be allowed for meals*]. The apprentice shall not be required to work later than noon, or more than [5] hours in all on any Saturday].

3. The father hereby covenants with the master as follows :—

(1) To provide the apprentice during the apprenticeship with suitable clothing and all other necessaries except board, lodging, washing, medical attendance and medicine.

(2) [*If the premium is payable by instalments.* To pay to the master £—— as a premium in manner following, namely, £—— on the —— day of —— next and £—— on the —— day of —— and £—— on the —— day of ——].

4. The father and the apprentice hereby respectively covenant with the master as follows :—

(1) That the apprentice shall faithfully and diligently serve the master during the apprenticeship in the said trade[s] at —— [or at any other place at which the master from time to time may carry on his said trade[s] (*a*), and shall obey the lawful commands of the master, and not absent himself from or neglect the master's service.

(2) That the apprentice will not wilfully waste or spoil any of the master's goods, or dispose of the same without the master's consent or injure the master in his said trade[s] or behave himself otherwise than as a diligent and faithful apprentice.

(3) That the master shall have power to deduct from the wages of the apprentice such reasonable sum or sums as shall compensate him for any loss caused by the sickness, absence or incapacity to serve, or misconduct of the apprentice.

5. The master may by one week's notice in writing determine this agreement in the event of wilful disobedience or misconduct on the part of the apprentice [or in the event of default being made in payment of any instalment of the said premium of £——].

6. If the master or the apprentice shall die or become permanently incapacitated during the said term, or the master shall cease to carry on the said trade[s], the master or his executors or administrators shall repay to the father a part of the premium proportionate to the period of the said term then unexpired [*or if the premium is payable by instalments*, the father shall be discharged from all liability to pay any instalment of the said premium of £—— which shall not have then accrued due], and all liability hereunder of the parties hereto or their executors or administrators shall thereupon determine. The certificate of two qualified medical practitioners shall be conclusive evidence of permanent incapacity (*b*).

(*a*) In the absence of special provision, the apprentice cannot be required to serve at any place except that where the business is being carried on and the parties reside (*Eaton* v. *Western* (1882), 9 Q. B. D. 636).

(*b*) See *Derby* v. *Humber* (1867), L. R. 2 C. P. 247. In the absence of special provision, the death of the master does not entitle the father to demand a return of

[7. If the apprentice shall duly and faithfully serve the master throughout the said term the master will for the period of —— years from the determination thereof employ the apprentice as a —— in his said trade at wages of not less than —— shillings per week.]

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

9.

INDENTURE for Apprenticeship in the City of London (*c*).

THIS INDENTURE WITNESSETH that [*apprentice*], with the consent of [*father or guardian*], doth put himself apprentice, to [*master*], of &c. [ironmonger], and a citizen of London, to learn his art, and with him after the manner of an apprentice, to serve from the day of the date hereof, until the full end and term of —— years (*d*) thence next following, and to be fully complete and ended during which term the said apprentice his said master shall faithfully serve, his secrets keep, and his lawful commands everywhere gladly do; he shall do no damage to his said master, nor see it done by others, but that he to his power shall let or forthwith give warning to his said master of the same; he shall not waste the goods of his said master nor lend them unlawfully to any; he shall not commit fornication [nor contract matrimony] within the said term; he shall not play at cards, dice, tables, or any other unlawful games whereby his said master may have any loss; with his own goods or others during the said term, without the licence of his said master he shall neither buy nor sell; he shall not haunt taverns or playhouses, nor absent himself from his said master's service day or night unlawfully, but in all things as a faithful apprentice he shall behave himself towards his said master, and all his during the said term.

[*If the master pays wages instead of finding board, &c.* AND the said father [*or* guardian] during the said term the said apprentice with meat, drink, apparel, lodging, and all other necessaries, shall provide and from all claims and demands, costs, and expenses in respect thereof shall keep the said master indemnified.]

AND the said master in consideration of £—— (being the money given with the said apprentice), his said apprentice in the same art which he

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any part of the premium (*Whincup* v. *Hughes* (1871), L. R. 6 C. P. 78), although the contract is determined by the death or permanent incapacity of master or apprentice (*Farrow* v. *Wilson* (1869), L. R. 4 C. P. 744; *Boast* v. *Firth* (1868), *ibid.* 1). As to the effect of the bankruptcy of the master, see Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 34.

(*c*) Stamp 2*s* 6*d*., unless the child is apprenticed at sole cost of a parish or public charity.

In the city of London an infant above fourteen years of age may bind himself to a freeman, and in case of the death of the master, his executors are bound to find another master for the apprentice. This form is authorised by Act of Common Council (14th March, 1889), for apprentices in the City of London.

(*d*) The term must not be more than eight years or less than four.

useth, by the best means that he can, shall teach and instruct or cause to be taught and instructed and finding unto his said apprentice meat, drink, apparel, lodging, and all other necessaries, according to the custom of the City of London during the said term [*or* paying unto his said apprentice as wages the sum of —— shillings for every week of the said term].

AND for the true performance of all and every the said covenants and agreements either of the said parties bindeth himself unto the other by these presents.

IN WITNESS whereof the parties above named to these indentures interchangeably have set their hands and seals the —— day of —— in the —— year of grace of the reign of our Sovereign Lord George V by the Grace of God of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith, (*dd*) and in the year of Our Lord one thousand nine hundred and ——

SEALED and DELIVERED in the presence of —— [*Witness*] [*Signatures and seals of all parties.*]

10.

INDENTURE for Apprenticeship in the Mercantile Marine Service (*e*).

THIS INDENTURE, made the —— day of ——, 19—, BETWEEN [*apprentice*], aged —— years, a native of ——, in the county of ——, now residing at ——, of the first part, [*master*] of (*f*) ——, in the county of ——, of the second part, and [*surety*] (*g*), of ——, in the county of ——, of the third part,

WITNESSETH, That the said [*apprentice*] hereby voluntarily binds himself apprentice unto the said [*master*], his executors, administrators, and assigns for the term of —— years from the date hereof And the said apprentice hereby covenants that, during such time, the said apprentice will faithfully serve his said master, his executors, administrators, and assigns, and obey his and their lawful commands, and keep his and their secrets, and will, when required, give to him and them true accounts of his or their goods and money which may be committed to the charge, or come into the hands of the said apprentice and that the said apprentice

(*dd*) See the Royal and Parliamentary Titles Act, 1927, and Stat. R. & O. 1927, No. 422.

(*e*) No stamp. See Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 108. This form is the official form of the Board of Trade. As to the apprenticeship of boys under 16 to the sea-fishing service, see *ibid.* s. 395, and the alternative official forms of indenture prescribed by S. R. & O. 1915, No. 146, and S. R. & O. 1922, No. 780, and see the Encyclopædia of Forms, 2nd Edn. vol. 1, p. 499.

As to the employment of young persons on a ship see the Merchant Shipping (International Labour Conventions) Act, 1925 (15 & 16 Geo. 5, c. 42).

(*f*) Full address.

(*g*) If there is a surety his name is to be inserted here ; but a surety is not essential. If there is not one, the part relating to him should be struck out.

will not, during the said term, do any damage to his said master, his executors, administrators, or assigns, nor will he consent to any such damage being done by others, but will, if possible, prevent the same, and give warning thereof and will not embezzle or waste the goods of his master, his executors, administrators, or assigns, nor give or lend the same to others without his or their licence nor absent himself from his or their service without leave nor frequent taverns or alehouses, unless upon his or their business nor play at unlawful games.

IN CONSIDERATION WHEREOF, the said master hereby covenants with the said apprentice, that during the said term he, the said master, his executors, administrators, and assigns, will and shall use all proper means to teach the said apprentice or cause him to be taught the business of a seaman [*or* steward *or* cook], and provide the said apprentice with sufficient meat, drink, lodging, washing, medicine, and medical and surgical assistance, and pay to the said apprentice the sum of £——, in manner following (that is to say,) —— the said apprentice providing for himself all sea-bedding, wearing apparel, and necessaries (except such as are hereinbefore specially agreed to be provided by the said master).

AND IT IS HEREBY AGREED, that if, at any time during the said term, the said master, his executors, administrators, or assigns provide any necessary apparel, or sea-bedding for the said apprentice, he and they may deduct any sums properly expended thereon by him or them from the sums so agreed to be paid to the said apprentice as aforesaid

AND for the performance of the agreements herein contained, each of them, the said [*master*] and [*apprentice*], doth hereby bind himself, his heirs, executors, and administrators, unto the other of them, his executors and administrators in the penal sum of £—— (*h*)

[AND for the performance of the covenants on the part of the said apprentice herein contained, the said [*surety*], as surety, doth hereby bind himself, his heirs, executors, and administrators, unto the said [*master*], his executors and administrators, in the penal sum of £——.]

PROVIDED, that notwithstanding the penal stipulations herein contained, any Justice or Justices of the Peace may exercise such jurisdiction in respect of the said apprentice as he or they might have exercised if no such stipulations had been herein contained.

IN WITNESS whereof, the said parties have hereunto set their hands and seals, the day and year above written (*i*).

(*h*) As an infant cannot be bound by a penal clause (*Baylis* v. *Dinely* (1815), 3 M. & S. 477; *De Francesco* v. *Barnum* (1890), 45 Ch. D. 430, 439), this clause does not seem of much value as against an infant apprentice.

(*i*) This Indenture must be executed in duplicate; both copies must be taken within seven days after execution either to the Registrar-General of Shipping and Seamen, Custom House, London, E.C., or, if in the Outports, to the Superintendent of the Mercantile Marine Office; one copy will then be retained and recorded, and the other returned to the master with the necessary indorsement.

SIGNED, SEALED, and DELIVERED, in the presence of ——

Place of the Seal.

_____ (*Master.*)

Place of the Seal.

_____ (*Apprentice.*)

Place of the Seal.

_____ (*Surety.*)

Registered at the Port of —— this —— day of ——.

SIGNED ——.

[*Registrar*].

11.

INDENTURE to Cancel a Deed of Apprenticeship (*j*).

THIS INDENTURE is made the —— day of ——, BETWEEN [*parties as in Form* 8, *p.* 17, *supra*].

WHEREAS by an indenture, dated the —— day of —— and made between [*parties*] the apprentice was in consideration of —— pounds duly apprenticed to the master to learn the art and business of a ——, upon the terms and stipulations therein expressed.

AND WHEREAS divers disputes and differences have lately arisen between the said parties.

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of —— pounds now paid by the father to the master (the receipt whereof is hereby acknowledged), the said indenture shall be and is hereby cancelled, determined and made void, in all respects, and to all intents and purposes whatsoever.

2. The said master shall and will accept the sum of £—— in full discharge of all claims and demands whatsoever, which he may have, or might set up, against the father either under or by virtue of the said indenture, or otherwise howsoever.

3. No action or other proceedings, whatsoever, civil or criminal, shall hereafter be taken, or be attempted to be taken, by or on behalf of either

(*j*) Stamp 10*s*. It is better to make the son a party so as to identify him, for although it may also show his assent to the cancelment, it would be unavailing if this agreement were broken and proceedings taken before he attained his majority.

of the said parties, against the other or others of them, or his or their executors or administrators, under or by virtue of the said indenture either for or in respect of such cancelment, or for or in respect of any other act, matter, complaint or thing whatsoever, touching or relating to the said apprenticeship.

[4. No libellous, scandalous, defamatory or offensive reports, statements, or words whatever shall be published, made, or used, directly or indirectly, by either party against the other or others of them, touching or relating to the said apprenticeship, or any act, matter or thing whatever relating or incident thereto it being the intention of all the parties hereto that the arrangement hereby made shall be amicable and exclude all recurrence to the past (*k*)].

5. The apprentice shall not enter into the service or employment of any other person or persons in the town of ——, or within an ambit of —— miles thereof, nor divulge or disclose any of the secrets of the master, or of his trade or dealings, or of his household affairs, or any other matter or thing whatsoever which may be injurious, prejudicial, or derogatory either to the business or to the character or reputation of the master or any of his family, friends, or servants.

IN WITNESS, &c.

[*Signatures of all parties.*]

AFFILIATION.

12.

AGREEMENT for Payment of a Monthly Sum for Maintenance of Illegitimate Child. Variation when the Mother is under age (*l*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*putative father*], of &c. of the one [first] part, [*parent or surety*, of &c. (herein-

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(*k*) This clause may be useful in cases where the parties separate in circumstances of hostility.

(*l*) Stamp 2*s*. 6*d*. for every £5 or fraction of £5 of the sum periodically payable (*Jackson* v. *Commissioners of Inland Revenue* (1902), 87 L. T. 269). This agreement should be under seal. If the mother is an infant, her parent or some relation should be made a party to the agreement to guarantee her performance of its terms. In the event of the mother's death before the child reaches the stipulated age, the agreement will become inoperative (*James* v. *Morgan*, [1909] 1 K. B. 564). An agreement of this kind does not preclude the justices from making an order for maintenance in bastardy proceedings (*Follit* v. *Koetzow* (1860), 2 E. & E. 730), but the mother cannot take proceedings if she marries after the child's birth (*Stacey* v. *Lintell* (1878), 4 Q. B. D. 291; *Tozer* v. *Lake* (1879), 4 C. P. D. 322; *Healey* v. *Wright*, [1912] 3 K. B. 249); whether she is living with her husband (*Marshall* v. *Malcolm* (1917), 87 L. J. K. B. 491) or not (*Peatfields* v. *Childs* (1899) 63 J. P. 117); *aliter*, if she has obtained a separation order (*Boyce* v. *Cor*, [1922] 1 K. B. 149; and see Supreme Court of Judicature (Consolidation) Act, 1925, s. 194 (1) (*b*)). An order cannot be made after twleve months from the birth (Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65), s. 3) unless the putative father has ceased to reside in England within the twelve months (*ib*)., or has within such period made payments for its maintenance (*ib*.). If the child

after called the surety) of the second part], and [*mother of illegitimate child*], of &c. (hereinafter called the mother) of the other [third] part.

WHEREAS the mother alleges that the said [*putative father*] is the father of her male [*or* female] illegitimate child, born on the —— day of —— and registered under the name of ——

NOW IT IS HEREBY AGREED as follows :—

1. The said [*putative father*] shall on the —— day of —— next and thereafter on the —— day of every calendar month [*or* week] until the said child shall attain the age of [16] years or previously die pay to the mother the sum of £—— [*or* shillings], such sum to be applied by her in the maintenance [education] and support of the said child (*m*).

2. The mother shall out of the sums to be paid to her as aforesaid, properly feed, clothe, lodge, and maintain the said child until the said child shall attain the age of [16] years.

3. Neither the mother nor any person on her behalf shall make any claim against the said [*putative father*] by way of affiliation proceedings, or otherwise in respect of the birth of the said child, or its maintenance and support if, and so long as, the said [*putative father*] shall punctually pay the sum mentioned in clause 1 thereof.

4. The mother shall not at any time hereafter in any way molest or disturb the said [*putative father*] or do or permit any relative or other person on her behalf to do anything which may tend to injure harass or annoy the said [*putative father*] or his [wife, children] relations or friends or suffer the said child to bear the surname of the said [*putative father*] or disclose to any person the alleged parentage of such child.

5. If the mother shall commit a breach of any stipulation herein contained the liability of the said [*putative father*] to make any further payment under clause 1 of this agreement or otherwise shall cease as from the date of such breach but without prejudice to any other remedy which the said [*putative father*] may have by reason of such breach.

[6. The surety who has entered into this agreement for the purpose of guaranteeing the due performance by the mother who is under the age of twenty-one years shall be personally liable to the said [*putative father*] for any breach of this agreement by the mother [before she attains the age of twenty-one years]].

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

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becomes chargeable to the parish the guardians can, however, obtain an order against the putative father even after the mother's marriage (*Plymouth Guardians* v. *Gibbs*, [1903] 1 K. B. 177), and such an order may be continued after the child has ceased to be so chargeable, but only until the child attains 16 or dies, except for the recovery of arrears (Bastardy Act, 1923 (13 & 14 Geo. 5, c. 23), s. 3). See Affiliation Orders Act, 1914 (4 & 5 Geo. 5, c. 6) and Affiliation Orders (Increase of Maximum Payment) Act, 1918 (8 & 9 Geo. 5, c. 49); and generally Halsbury's Laws of England, title "Bastardy," vol. 2, pp. 443 *et seq.*, and Stone's Justices Manual (1927), p. 356.

(*m*) An agreement by the father to pay to the mother a weekly sum for the maintenance of a child is terminated on the death of the mother (*James* v. *Morgan*, [1909] 1 K. B. 564).

13.

AGREEMENT for Payment of a Lump Sum for Maintenance of Illegitimate Child (*n*).

THIS AGREEMENT is made, the —— day of —— BETWEEN [*putative father*] of &c. of the first part [*mother*] of &c. (hereinafter called the mother) of the second part and [*trustee*] of &c. of the third part.

WHEREAS the mother was, on the —— day of ——, delivered of a male [*or* female] illegitimate child registered in the names of —— of which she alleges the said [*putative father*] to be the father, and towards the support and maintenance of which child he has hitherto privately contributed.

AND WHEREAS a continuance of such contribution either periodically or at indefinite periods is likely to lead to exposure and disastrous results.

[*Or*, AND WHEREAS, the said [*putative father*] is about to go and reside abroad for a considerable time and is desirous of providing a definite fund for the maintenance and support of the said child.]

AND WHEREAS the said [*putative father*] has paid to the said [*trustee*] the sum of £—— for the purpose hereinafter mentioned.

NOW IT IS HEREBY AGREED as follows :—

1. The mother hereby accepts the said sum of £—— so paid to the said [*trustee*] as aforesaid [*if further instalments are payable* and the sums to be paid by the said [*putative father*] to the said [*trustee*] as hereinafter mentioned] in full satisfaction and discharge of all present and future contribution to, and liability for or towards the support and maintenance of the said child, and all claims and demands whatsoever in respect thereof.

2. The mother will henceforth herself maintain, support, clothe and educate the said child in all respects.

3. *If further instalments are payable* The said [*putative father*] will pay to the said [*trustee*] a further sum of £—— on each of the following days if the said child [and the said [*putative father*]] shall be then living namely the —— day of —— the —— day of —— and the —— day of——.

4. The said sum of £—— so paid as aforesaid [and all sums received in pursuance of clause 3 hereof] shall be applied by the said [*trustee*] for the maintenance, support, clothing and education of the said child in or towards relief of the obligation of the mother in that behalf and may if he thinks fit be handed over in whole or in part to the mother for such purposes.

5. The mother will not, at any time or times hereafter, disclose or divulge the paternity of the said child to any person or persons whom-

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(*n*) Stamp if only one lump sum is payable, 10*s*. The agreement should be under seal. It is scarcely so effective a protection against affiliation proceedings as the preceding agreement, inasmuch as except so far as instalments remain unpaid the safeguard contained in the power to discontinue payment is not available.

soever, or make, or cause to be made any application whatever either for an order of affiliation, or to the said [*putative father*] or any of his family, friends or connections, either directly or indirectly, officially, or otherwise, for payment of any further sum or contribution for or towards the maintenance, support, clothing or education of the said child, or otherwise in respect thereof, or directly or indirectly, expose or wilfully do any act whatever, either for the purpose of injuring, harassing or annoying the said [*putative father*] his [wife, children] family or others on account or in respect of the said child.

[6. If the mother shall at any time hereafter commit any breach of this agreement all liability of the said [*putative father*] to make any further payments hereunder shall forthwith cease but without prejudice to any other remedy the said [*putative father*] may have by reason of such breach.]

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

ANIMALS.

14.

AGREEMENT for Agistment of Cattle (*o*).

AN AGREEMENT dated the —— day of —— BETWEEN [*farmer*] of &c. (hereinafter called the farmer) of the one part and [*stockowner*] of &c. (hereinafter called the stockowner) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The farmer will graze and depasture upon his farm known as —— Farm the stock and cattle of the stockowner from the —— day of —— next to the —— day of —— next at the prices set forth in the Schedule hereto.

2. The number of animals at pasture may be varied by the stock owner from time to time [but the total number at pasture at any one time shall not exceed ——]. Part of a week shall be paid for as a whole week.

3. At the expiration of each period of four weeks the stockowner shall pay to the farmer all sums due for pasturage during such period, the first payment to be made at the end of the [fourth] week from the date of this agreement [*or* from the date when the animals of the stockowner are first turned in].

4. The stockowner shall not require the farmer to take in any dangerous or diseased animal, and shall bear all veterinary charges and cost of medicine and extra charges incurred by reason of sickness or injury occurring to any animal.

5. The farmer shall not be responsible for loss or injury of or to any animal of the stockowner arising from the vice or restive nature of any

(*o*) Stamp 6*d*. As to the extent of the exemption of agisted cattle from distress, see Agricultural Holdings Act, 1923 (13 & 14 Geo. 5, c. 9) s. 35.

of such animals or for any damage not caused by the farmer's negligence (*p*). The farmer will give the stockowner immediate notice of any injury or sickness occurring to any animal.

6. The farmer shall have a general lien (*q*) on all animals of the stockowner for the time being depastured on the said farm for any sum owing or expense incurred which under this agreement the stockowner ought to pay and such lien in the event of non-payment for [7] days after payment thereof shall have been demanded in writing may be enforced by sale of any animal or animals of the stockowner for the time being depastured on the said farm.

IN WITNESS, &c.

SCHEDULE OF CHARGES.

Description of Animal.	Price per week.
Mare and Foal	— shillings.
One-year-old Colt	— shillings.
Etc.	Etc.

[*Signatures of both parties.*]

15.

AGREEMENT for Agistment of Milch Cows (*r*).

AN AGREEMENT, &c., made the —— day of —— BETWEEN [*parties as in Form* 14, p. 27, *ante*].

WHEREBY IT IS AGREED as follows :—

1. The farmer will graze, depasture, and keep upon his farm known as —— Farm [six] milch cows of the stockowner from the —— day of —— next to the —— day of —— next, and for such purpose will use all reasonable care in housing and pasturing such cows and employ an efficient cowman to tend and safeguard the same.

2. During the said period the farmer shall be entitled to milk the said cows in an efficient manner and sell or otherwise dispose of such milk for his own advantage.

3. [*Clause as to dangerous or diseased animals as in Form* 14, *clause* 4, p. 27, *supra.*]

4. [*Clause exempting farmer from responsibility for injury as in Form* 14, *clause* 5, p. 27, *supra.*]

5. The stockowner shall have free access to the said cows at all reasonable times for the purpose of inspecting their condition, and if any

(*p*) See *Manton* v. *Brocklebank*, [1923] 2 K. B. 212 ; *Howard* v. *Bergin, O'Connor & Co.*, [1925] 2 I. R. 110, C.A.

(*q*) No lien exists in the absence of agreement (*Richards* v. *Symons* (1845), 8 Q. B. 90 ; *Jackson* v. *Cummins* (1839), 5 M. & W. 342).

(*r*) Stamp 6*d*. This form of agreement is commonly known as a " milk for meat " agreement (see *London & Yorkshire Bank* v. *Belton* (1885), 15 Q. B. D. 457).

cow shall in his opinion be found to be in a neglected or unsatisfactory state the stockowner may remove the same at once from the farm without paying any compensation whatever.

IN WITNESS, &c.

[*Signatures of both parties.*]

16.

AGREEMENT for Service of a Bull (*s*).

AN AGREEMENT made the —— day of —— BETWEEN [*Secretary*] of &c. as agent for the —— Agricultural Society (hereinafter called the Society) of the one part and [*farmer*] of &c. (hereafter called the farmer) of the other part.

WHEREBY IT IS AGREED as follows :—

1. During the continuance of this agreement the farmer shall keep at his farm at —— properly tended and exercised and in good condition for the purpose of serving cows and heifers the bull named —— which is the property of the farmer and shall permit any cow or heifer belonging to any member of the society to be served by the said bull subject to the conditions hereinafter contained. The season for service shall begin on the —— day of —— and end on the —— day of ——.

2. Before permitting any cow or heifer to be served by the said bull the farmer shall require the person in charge of such cow or heifer to deliver to him a nomination paper signed by the secretary for the time being of the society in the form set forth in the schedule hereto, and may require payment by such person of a fee of £—— and a further fee of £—— for the person in charge of the bull.

3. The society shall not issue more than —— nominations for service by the said bull during the continuance of this agreement.

4. Cows and heifers may be served between the hours of —— and —— on weekdays and on Sundays only before —— a.m. and between the hours of —— and —— p.m.

5. Cows and heifers shall be served according to priority of arrival, and any cow or heifer suffering from any contagious disease shall be refused service.

6. No cow or heifer shall be covered more than twice at any one visit. One nomination and fee of £—— shall entitle the cow or heifer to three services with six weeks' interval between the second and third services but a separate fee of £—— must be paid to the person in charge of the bull for every such service.

7. All nomination forms received by the farmer during each month shall be returned by him to the secretary of the society at the end of such month.

8. If by reason of illness or otherwise the bull shall become unfit for service, the farmer will at once inform the secretary of the Society of

(*s*) Stamp 6*d*.

the fact and reason of such incapacity and will substitute for the said bull some other bull approved by the said secretary and certified sound by a veterinary surgeon to be appointed by the society.

9. The farmer shall not be responsible for any injury or damage caused to any cow or heifer not due to the negligence of himself or his servants.

10. This agreement may be determined by either party on giving to the other [one week's] notice in writing.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

No. —— NOMINATION available till the —— day of ——
—— Agricultural Society.
To Mr. [*farmer*], of —— Farm.

PLEASE ALLOW a —— cow [*or* heifer] belonging to Mr. [*owner*], of &c., who is a member of the above society to be served by your bull —— on the production of this nomination with the annexed declaration duly signed by the said [*owner*]

[*Signature of Secretary.*]
Secretary.

DECLARATION.

I [*owner of cow or heifer*] hereby declare that the above described cow [*or* heifer] in charge of the person delivering this nomination is my sole property that she has not aborted within the past 12 months or been served during the past 6 weeks by any other bull, and I undertake to pay to the said [*farmer*] £10 damages if this declaration proves untrue.

[*Signature of owner of cow or heifer.*]
[*Signatures of both parties.*]

17.

AGREEMENT for Hiring Horses and Carriage where Hirer provides Stabling (*t*).

AN AGREEMENT made the —— day of —— BETWEEN [*livery-stable keeper*] of &c. (hereinafter called the jobmaster) of the one part and [*hirer*] of &c. (hereinafter called the hirer) of the other part.

WHEREBY IT IS AGREED as follows :—

1. As from the —— day of —— next the jobmaster will supply to the hirer who hereby agrees to hire the same a modern well-built and well-appointed private landau [*or* dog-cart *or* barouche *or* victoria *or as the case may be*] and also a pair of sound, strong horses of —— colour, active and wholly free from blindness and any kind of vice, and well matched

(*t*) Stamp 6*d*. If the payments are made payable in advance, bond, covenant, etc. duty is payable.

For form of agreement for the hire of a motor-car see Encyclopædia of Forms, 2nd Edn. vol. 13, p. 657.

both in size and colour together with harness and other accoutrements of the best quality, such carriage horses and harness to be in all respects to the approval of the hirer.

2. The jobmaster will also supply a respectful, skilful and steady coachman in suitable livery to drive and take care of the said horses and carriage.

3. The said jobmaster will, at his own expense, keep the said carriage and harness in perfect repair (*u*), save only the replacing glass to such of the sashes as may from time to time be accidentally broken or damaged by the hirer or by any other person whilst in his use, and any injury to the carriage or harness occasioned wilfully or by or through the negligence of him or any of his family, friends, visitors or servants.

4. In case the said carriage or harness, or any part thereof respectively shall be broken, damaged, or dangerous, or the cushions or linings soiled so as to be unsuitable for the use of, or objectionable to the hirer, or the said horses or either of them shall die or become blind, lame, unsound, or in any sense vicious, unmanageable, or unfit for use, the jobmaster will repair and replace the same with such other substitutes as the hirer shall approve.

5. The hirer will pay to the jobmaster every calendar month from the —— day of —— next the sum of £—— for the hire of the said carriage, horses, harness, and coachman, the first of such payments to be made on the —— day of —— next.

6. The hirer shall provide proper and sufficient corn, hay, straw, grooming, medicine and veterinary attendance and other necessaries for the said horses, and good [separate] stabling for them, and a good, dry [and separate] coachhouse for the said carriage, and a proper harness-room [with cupboards and other conveniences], and will provide the said coachman [with the servants of his household] with suitable board and lodging either over the hirer's stables or in apartments near thereto during the continuance of the said hiring.

7. The hirer shall also at his own expense, make good all such damage as may be occasioned to the said carriage by or through the wilful acts or negligence of himself, his family, friends, visitors or servants (*a*).

8. The said coachman shall at all times obey the reasonable orders of the hirer, but shall remain the servant of the jobmaster who shall indemnify the hirer against any claims brought against him arising out of any accident or injury occurring to the said coachman.

9. If the hirer shall give the jobmaster notice that he is dissatisfied with the said coachman, the jobmaster will substitute for the said coachman within one week of the date of such notice another skilful, steady and respectful coachman to the approval of the hirer.

10. Either party may determine this agreement at any time on giving to the other of them [one] calendar month's notice in writing for that

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(*u*) As to the interpretation of this agreement, see *Reading* v. *Menham* (1832), 1 Moo. & R. 234.

(*a*) As to liability to third parties by negligent driving, see English and Empire Digest, vol. 34, pp. 138–143.

purpose. In case this agreement shall not be duly fulfilled by the jobmaster, or if the hirer shall have occasion to leave or change his present residence, this agreement may be determined by the hirer giving to the jobmaster —— hours' notice for that purpose, but without prejudice to the rights of either party which may have then accrued under or by virtue hereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

18.

AGREEMENT for Hiring of Horse and Carriage where Jobmaster provides Stabling (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 17, p. 30, *supra*].

WHEREBY IT IS AGREED as follows:—

1. As from the —— day of —— next, the jobmaster will supply to the hirer a well-built brougham [*or* landau *or as the case may be*] and will also provide a suitable horse with proper harness and a civil and competent coachman at all times when required by the hirer.

2. The hirer shall pay to the jobmaster £—— on the —— day of each month during the continuance of this agreement and shall not be liable for any other payments whatever in respect of the said hiring.

3. The said coachman shall, if required by the hirer, be supplied with suitable livery and shall obey the reasonable commands of the hirer, but shall be the servant of the jobmaster, whether as regards liability for accident or otherwise.

4. The said horse and carriage shall not be used between the hours of [7 p.m. and 8 a.m.], or for more than —— hours per day [*or* ——hours in the aggregate per week].

5. The jobmaster shall not be bound to supply the hirer with the same carriage horse and coachman on all occasions, but will endeavour so to do whenever reasonably possible.

6. This agreement may be determined by either party giving to the other [one] calendar month's notice in writing. If the hirer shall make default for one week in payment of any of the said monthly payments after the due date thereof the jobmaster may determine this agreement forthwith, but shall receive a proportionate payment up to the date of such determination.

IN WITNESS, &c.

[*Signature of both parties.*]

(*b*) Stamp. See p. 30, note (*t*), *ante*.

19.

AGREEMENT for Renting a Dairy of Cows (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. of the one part and [*tenant*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*landlord*] will let to the said [*tenant*], who will take ALL THAT his dairy of —— cows, with the use of the dairy-house, cowstalls, outbuildings, garden, and farm-yard on the farm now in the occupation of the said [*landlord*], called The —— Farm, with the pasturage hereinafter mentioned, for the term of one year, commencing on the —— day of —— next (*d*) at the rent of £—— per cow, payable quarterly in advance as hereinafter mentioned the first payment thereof (*e*) to be made on the —— day of —— next, and before entry on the premises.

2. THE SAID [*landlord*] hereby agrees with the tenant as follows :—

(i) To provide upon or near the said premises good and sufficient hay and straw for the cows and calves, the tenant foddering them gratis.

(ii) When and as any of the cows shall become dry or barren, or through illness shall not yield a due and proper quantity of pure milk, forthwith to remove and keep them in the straw yard and substitute other good milch cows in their stead.

(iii) To supply the place of such of the cows as may die during the term immediately after the respective deaths and in case any substituted cow or cows shall not calve by the —— day of —— next (*f*) to allow a proportionate part of the current quarter's rent in respect of each of such cows, and in case he shall not think fit to fill up such vacancies, or any of them, then the rent for such last-mentioned cows respectively shall cease till such vacancy or respective vacancies shall have been filled up.

(iv) To provide a bull for the use of the cows, on or before the —— day of —— (*g*); and remove it on or before the —— day of —— (*h*) in each year.

(v) To allow the said [*tenant*] in the proportions of £—— per cow,

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(*c*) Stamp. *Ad valorem* on the rent. For other forms see p. 35, *post*; and Encyclopædia of Precedents, 2nd Edn. vol. 8, p. 530.

(*d*) This period varies in different places and according to circumstances. Sometimes it is the 2nd or 14th of February or the 7th of March, and sometimes Ladyday or May-day; but it is usually Candlemas or the 14th of February.

(*e*) These rents generally are, as they should be, made payable in advance; and, in such cases, the first payment should be made payable on the day of and before entry.

(*f*) Usually the 6th of May.

(*g*) This should not be later than the 6th of April; for otherwise the dairyman may lose some of the calves by the determination of the tenancy before they are "dropped"; especially where the entry is at Candlemas.

(*h*) Usually the first day of August.

for or in lieu of fuel and the carriage thereof. [*If interest is to be allowed on the last quarter's rent, which is not unusual,* And also at the termination of the tenancy to allow, out of the last quarter's rent, the sum of £—— for or in respect of interest on the first quarterly payment, in advance, as aforesaid.]

(vi) To pay all rates taxes and outgoings assessed or imposed upon the said premises.

3. The said [*tenant*] hereby agrees to pay the said rent in advance, to the said [*landlord*], on the several days hereinafter mentioned, namely, the sum of £——, being the first quarter thereof, before entry on the —— day of —— next (*i*), the sum of £——, being the second quarter thereof, on the —— day of —— next the sum of £——, being the third quarter thereof, on the —— day of —— next and the sum of £——, being the last quarter thereof, on the —— day of —— next.

4. The said [*tenant*] shall have the use of the dairy-house, cowstalls, out-buildings, yard, and garden during the tenancy, and keep and leave the internal parts of the said dairy-house, and the locks, fastenings, and the glass and lead of the windows thereof in good [*or* tenantable] repair.

5. The said [*tenant*] shall have the run of —— paddocks, or closes adjoining the said dairy-house, and of a close at —— near the dwelling-house of the said [*landlord*] called ——, at N., and also the after-grass of —— acres at ——, in the said parish called [The Moors], but the said [*landlord*] shall be at full liberty, after the first feeding of the cows, to put any number of sheep or lambs, not exceeding ——, in the close called ——; provided there shall be sufficient pasturage for the cows [*or* cattle].

6. No geese, ducks (*j*), or other poultry, except fowls or pigeons, shall be kept or permitted to run on the pasture lands or other part of the premises except the farm-yard.

7. The said [*tenant*] shall have the run of the stubble-fields and paddocks on the said farm for his pigs, provided they are kept well ringed, but only —— sows shall be allowed to run in the paddocks, and then only when they are dry.

8. The said [*tenant*] shall be at liberty to keep one horse, or mare, and her foal, if any, but the foal shall be sold at the Michaelmas succeeding its birth and the mare and colt shall be kept during the summer in the close called "——," or in [The Moors], and not elsewhere, except at night.

9. If any one or more of the cows shall have two calves, not being twins, in any one year, the last calf or calves shall belong to the said [*landlord*].

10. The cows whilst in the said moors shall be milked there and not elsewhere.

11. The —— paddocks shall be laid up on the —— day of —— next (*k*) and not be fed again till the —— day of —— next following.

12. If either party be desirous of determining the tenancy hereby created he shall give to the other of them —— calendar months' notice,

(*i*) This should be the day of entry.
(*j*) Ducks are usually excepted.
(*k*) In many places this time is Candlemas, but it varies in different localities.

in writing, for that purpose on or before the —— day of —— next preceding the end of the tenancy.

13. If the said [*tenant*] shall die, or become bankrupt, or make any composition or arrangement with his creditors; or suffer any execution to be levied upon his effects, or do any wilful damage to the said dairy or premises, or neglect duly to attend to, or manage the same according to the local [*or* most improved] customs relating to dairies, or shall refuse or neglect to pay the said rent [in advance] within —— days next after either of the quarterly days of payment hereinbefore mentioned, then, and in either of such cases, the tenancy hereby created shall, at the option of the said [*landlord*], thenceforth cease, and it shall be lawful for the said [*landlord*] to forthwith take and resume possession of the said dairy and of the said dairy-house, buildings, and premises.

14. The said [*landlord*] shall, on non-payment of the said rent [in advance] on any or either of the said quarterly days of payment hereinbefore mentioned, have full power, and may exercise all and the same powers and remedies for levying and recovering the same as are vested in landlords on non-payment of rent under common demises [as well as in case of fraudulent removal of any of the stock, goods, chattels, or effects of the said [*tenant*]] (*l*).

IN WITNESS, &c.

[*Signatures of both parties.*]

20.

AGREEMENT for Renting a Dairy of Cows (short form) (*m*).

MEMORANDUM OF AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. of the one part, and [*tenant*] of &c. of the other part.

1. The said [*landlord*] hereby agrees with the said [*tenant*] that he the said [*landlord*]

(i) Will let to the said [*tenant*] who will take and rent, a dairy of —— cows, with the dairy-house, called —— Dairy-house, and the outbuildings, sheds, yards, and garden thereto belonging, now in the renting and occupation of ——. Together with the pasturage hereinafter mentioned for the term of one year, commencing on the —— day of —— next, at the yearly rent of —— per cow, payable quarterly, in advance, free of all deductions whatsoever, on the —— day of ——, the —— day of ——, the —— day of ——, and the —— day of —— next.

(ii) If any of the cows hereby demised shall die, will immediately after the death of each cow, supply the vacancy occasioned thereby, and abate the rent in respect thereof from the time

(*l*) As to the nature of the holding and the tenant's right to distrain cattle damage feasant, see *Burt* v. *Moore* (1793), 5 Term. Rep. 329.

(*m*) Stamp. *Ad valorem* on the rent.

of the respective cow or cows so dying until such vacancy, or respective vacancies, shall be filled up with other good milch cows.

(iii) When any of the cows hereby demised shall become dry or barren, or, through illness, shall not yield a due and proper quantity of pure milk, will, in every such case [if required] forthwith remove such cow, and subsitute another good milch cow in her stead.

(iv) Will find and provide at convenient places, good and sufficient hay, straw, and pasture for the said cows.

2. The said [*tenant*] hereby agrees with the said [*landlord*] that he the said [*tenant*] :

(i) Will pay the said rent punctually on the several days hereinbefore appointed for payment thereof, without any deduction whatever, except for landlord's property tax.

(ii) Will keep all the gates, rails, bars, and fences belonging to the lands occupied by the said cows in good repair, the same being first put in such repair by the said [*landlord*].

(iii) Will spread all the ant and mole hills and cow-pats on the pasture lands whereon they exist and shall be dropped, and cut all thistles, docks, and rushes on those lands.

(iv) At the termination of the tenancy, will leave the same number of cows with calves [by their sides] as shall have calves, at the commencement thereof, and peacefully quit and deliver up the said cows, diary-houses, and premises at the termination of the tenancy under the stipulation hereinafter contained.

(v) To pay all rates taxes and outgoings assessed or imposed upon the said premises.

3. The produce of all [walnut and] fruit trees growing [in the orchard, or] on the said pasture lands shall belong to the said [*landlord*].

4. The said [*tenant*] shall not allow any pig or pigs, or geese to run or stray over any of the pasture lands belonging to the said [*landlord*] without his [written] permission.

5. If the said rent, or any part thereof, shall be in arrear for the space of —— days next after the same shall become due as aforesaid, or if the said [*tenant*] shall not duly perform the stipulations on his part hereinbefore contained, then, and in either of such cases it shall be lawful for the said [*landlord*] by notice in writing, forthwith to determine the tenancy hereby created, and upon any such determination the said cows, dairy-house, and premises shall be delivered up as if the tenancy had expired by effluxion of time.

IN WITNESS, &c.

[*Signatures of both parties.*]

ANNUITIES AND RENTCHARGES.

21.

AGREEMENT for Grant of an Annuity. Variations where the Annuity is Charged on a Life Interest and Policy of Assurance (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase at the price of £—— an annuity of £—— payable during the life of the purchaser [*or* the vendor *or* the longest liver of the purchaser and the purchaser's wife [*name*] *or as the case may be*] who is now aged —— years and upwards [*or* who are respectively aged —— years and —— years and upwards] by half-yearly [*or* quarterly] payments of £—— each on the —— day of —— [the —— day of —— the —— day of ——] and the —— day of —— in each year the first payment to be made on the —— day of —— next.

2. The said annuity shall be paid free of all deductions except income tax [and shall be charged as a first charge upon the life interest of the vendor in the residuary estate of [*testator*] who died on the —— day of —— and devised and bequeathed the same by his will dated the —— day of —— [*or* upon the life interest of the vendor in a sum of £—— two and a half per cent. Consolidated Stock [*or as the case may be*] now standing in the names of the trustees of a settlement executed upon the marriage of the vendor] [and upon a policy of assurance effected on the life of the vendor with the —— Insurance Company for £—— and bonuses and dated the —— day of —— and numbered ——]].

3. The purchase shall be completed on the —— day of ——next at No. —— Street —— the office of Mr. —— the vendor's solicitor at which time and place the purchaser shall pay his said purchase money and thereupon the vendor will execute a proper deed of covenant providing for the payment of the said annuity [and will thereby charge the same upon the said life interest and policy [*or* and will assign the said life interest and policy to trustees one to be nominated by each party thereto upon proper trusts for securing due payment of the same]. Such deed shall contain all usual and proper provisions for keeping the said policy on foot and production of the same and all receipts for premiums thereunder and generally [and shall contain a power for the vendor to redeem the said annuity on six calendar months' previous notice in writing and payment (in addition to all arrears and costs incurred by the purchaser by reason of any non-payment of such annuity and of and incidental to the redemption thereof) of a sum equal to the value thereof at the expiration of such notice calculated according to the government tables.]] In case

(*n*) Stamp 6*d*.

of dispute as to the provisions to be inserted in such deed the same shall be determined by the vendor's counsel.

4. The said deed shall be prepared and engrossed by the vendor's solicitor and sent to the purchaser for approval at least ten days before the date fixed for completion.

[5. The purchaser shall accept the vendor's title to the said life-interest and policy upon production to the purchaser of the said will [*or* settlement] and the said policy and the receipt for the last premium payable thereunder prior to completion and a letter signed by the trustees of the said will [*or* settlement] stating the particulars of the funds in which the vendor enjoys the aforesaid life interest and that they have received no notice of any incumbrance upon such life interest and a letter signed by the manager or other responsible official of the said Insurance Company that the Company has received no notice of any incumbrance affecting the said policy or any moneys payable thereunder.]

6. The purchaser in the event of his making default in payment of his said purchase money on the said —— day of —— shall pay to the vendor interest thereon at the rate of £4 per cent. per annum until payment, but on actual completion shall be entitled to the said annuity as from the said —— day of ——.

7. The death of the purchaser [*or* the vendor] [*or* the purchaser's said wife] before the said —— day of —— shall not affect this agreement.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

22.

AGREEMENT for Sale of an Existing Annuity charged upon a Life Interest and a Policy of Assurance (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 21, p. 37, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase at the price of £—— ALL THAT annuity of £—— payable during the life of the vendor [*or* [*annuitant*] of —— in the county of ——] [*or as the case may be*] free of deductions except income tax, and charged upon the life interest of [*grantor*] of &c. in the residuary estate of [*testator*] which consists of investments which are at the date hereof of the value of £—— or thereabouts and a policy of assurance effected on the life of the vendor [*or* the said [*annuitant*]] with the —— Insurance Company for £—— dated the —— day of —— and numbered ——.

2. The said annuity was created and secured by an indenture dated the —— day of —— and made between [*parties*], and has been regularly

(*o*) Stamp. *Ad valorem* conveyance duty on the purchase price (see Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 59).

paid down to the date hereof. The purchaser shall accept the vendor's title to the said annuity and the securities therefor upon production of the said deed and the said policy and the receipt for the last payment of premium thereunder and statements (to be procured by and at the expense of the purchaser) by the trustees of the said will and the manager or other responsible official of the said Insurance Company that they have received no notice of incumbrances affecting the said life interest and policy respectively.

3. The vendor [*or* the said [*annuitant*]] was —— years of age on the —— day of —— last and on the production of a certificate of his birth and a statutory declaration as to his identity to be made at the purchaser's expense by some person acquainted with the vendor [*or* the said [*annuitant*]] the purchaser shall admit such age and identity.

4. The purchase shall be completed on the —— day of —— next, at —— the office of Mr. —— the vendor's solicitor, at which time and place the purchaser shall pay the said purchase price and on such payment the vendor will execute a proper assignment to the purchaser of the said annuity and all securities therefor such assignment to be prepared and perfected (save as to the execution thereof by the vendor) by and at the expense of the purchaser.

5. [*Clause as to interest as in Form* 21, *clause* 6, p. 38, *supra, adding at the end*, and if necessary the said annuity shall be apportioned.]

6. The death of the vendor [*or* the said *annuitant*] before completion shall not affect this agreement.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

23.

AGREEMENT for Grant of a Rentcharge. Variation where the Rentcharge is Payable during the Life of the Grantor (*p*).

AN AGREEMENT made the —— day of —— BETWEEN [*grantor*] of &c. (hereinafter called the vendor) of the one part and [*grantee*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase for the sum of £—— a yearly rentcharge of £—— to be issuing and payable out of [*parcels*] in perpetuity [*or* during the life of the vendor who is now aged —— years of thereabouts].

2. The said rentcharge shall be payable by half-yearly payments on the —— day of —— and the —— day of —— in every year free from all deductions (except income tax) the first such payment to be made on the —— day of —— next (*q*).

(*p*) Stamp 6*d*.

(*q*) As to the remedies for recovery of such payments, see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 121. If the rentcharge is only payable during the life of the grantor, the purchaser cannot limit a legal term of years in the land charged: *ibid.* s. 121 (4).

3. The purchase shall be completed on the —— day of —— next at —— the office of Mr. —— the vendor's solicitor, at which time and place the purchaser shall pay the balance of his said purchase-money the sum of £—— having already been paid by way of deposit by the purchaser to the vendor the receipt whereof the vendor acknowledges. Upon payment of the balance of the said purchase-money the vendor and all other necessary parties if any will execute a proper instrument limiting the said rentcharge in favour of the purchaser such instrument to be prepared engrossed, and perfected (in duplicate if the form of the instrument so require) by and at the expense of the purchaser, and to be sent to the vendor's solicitor for approval [*ten*] days at least before the said —— day of —— next. The said instrument shall, if the purchaser so require, contain a covenant by the vendor for payment of the said rentcharge.]

4. The vendor's title to the said hereditaments shall commence with a conveyance on sale thereof dated the —— day of —— (*r*). The purchaser shall deliver his requisitions and objections in respect of such title within [10] days after delivery of the abstract of title and any replies arising out of the vendor's answers to such requisitions or objections within [5] days after delivery of such answers. Subject to any such requisitions objections and replies (if any) the title shall be deemed to be accepted and time shall be in this respect of the essence of the contract.

[4A. *Add clauses precluding specified objections if required* (*s*).]

5. If the purchaser shall make any requisition or objection which the vendor shall be unable or unwilling to comply with and shall refuse to withdraw the same after being requested in writing so to do the vendor may notwithstanding any intermediate negotiation litigation or adverse judicial decision rescind this agreement and the purchaser shall return to the vendor all abstracts and documents belonging to the vendor in his possession and the vendor shall repay to the purchaser his deposit which shall be accepted in full satisfaction of all claims for compensation costs or otherwise.

6. [*Clause as to interest as in Form* 21, *clause* 6, p. 38, *supra, with the insertion of the words,* the balance of *before the words* his said purchase money *and substituting* rentcharge for annuity.]

7. If the purchaser shall make default in performing any of the stipulations of these presents the vendor may by notice in writing rescind this agreement and forfeit the purchaser's said deposit.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

(*r*) For other forms of stipulations specifying the proposed root of title, see "Sale of Land," Form 193, p. 351, *post.*

(*s*) These clauses vary according to the title of the land to be charged.

24.

AGREEMENT for Sale of Existing Rentcharges (*t*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 21, p. 37, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy at the price of £—— ALL THOSE perpetual yearly rentcharges specified in the Schedule hereto issuing and payable out of the several hereditaments specified in the same Schedule which said rentcharges were created by deed dated the —— day of —— and made between [*parties*] together with the benefit of all powers and remedies for the recovery thereof.

2. The title to the said rentcharges shall commence with the said deed of the —— day of —— [*or* with a conveyance on sale thereof dated the —— day of —— [*or as the case may be*] and the earlier title shall not be investigated or inquired into]. The vendor shall not be required to furnish any abstract or evidence relating to the title to any of the hereditaments out of which the said rentcharges issue nor shall such title be inquired into.

3. and 4. [*Clauses as to requisitions and rescission as in Form* 23, *clauses* 4 *and* 5, p. 40, *supra, substituting* the said rentcharges *for* the said hereditaments.]

5. The purchase shall be completed on the —— day of —— next at the offices at —— of Messrs. —— the vendor's solicitors at which time and place the purchaser shall pay the balance of his said purchase money the sum of £—— having already been paid by way of deposit by the purchaser to the vendor who hereby acknowledges the receipt thereof. Upon payment of the balance of the said purchase money, the vendor will execute a proper conveyance of the said rentcharges to the purchaser such conveyance to be prepared engrossed and perfected, save as to the execution thereof by the vendor, by and at the expense of the purchaser and to be left at the office of the vendor's said solicitors for approval [ten] days at least before the said —— day of ——.

6. [*Clause as to interest and possession as in Form* 21, *clause* 6, p. 38, *supra, substituting* rentcharges *for* annuity *and inserting* the balance of *before the words* his said purchase money *and adding at the end of the clause* and if necessary the said rentcharges shall be apportioned.]

7. If the purchaser shall make default in performing any stipulation of this agreement the vendor may by notice in writing rescind this agreement and forfeit the said deposit and may resell the said rentcharges in such manner as he shall think fit, and the purchaser shall pay to the vendor any loss attending such resale over and above the amount of the said deposit as liquidated damages.

In WITNESS, &c.

(*t*) Stamp 6*d*.

THE SCHEDULE ABOVE REFERRED TO.

No.	No. on Ordnance Survey Map.	Lands charged.	Quantity (about).			Amount of charge.		
			A.	R.	P.	£	*s.*	*d.*
1.	—	Several closes of land at ——, belonging to ——, and in the occupation of ——, containing						
2.	—	A farm and lands at ——, called "—— Farm," belonging to ——, and in the occupation of ——, containing						
3.	—	Several closes of land known as "——" at ——, aforesaid, belonging to ——, and in the occupation of ——, containing						
		Total						

[*Signatures of both parties.*]

25.

AGREEMENT for Release of an Annuity charged on Freeholds. Variations where it is charged on Leaseholds (*a*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*annuitant*] of &c. of the one part and [*owner*] of &c. of the other part.

WHEREAS under or by virtue of the will of [*testator*] late of, &c., dated the —— day of —— and duly proved on the —— day of —— in the —— Probate Registry, the said [*annuitant*] is entitled to an annuity for her own life, [*or* during the life of [*name*] of ——] charged upon and payable from or out of all those freehold hereditaments known as —— in the county of —— [*or* all those hereditaments known as —— formerly copyhold of the manor of —— in the county of —— but now enfranchised by virtue of the Law of Property Act, 1922] (*b*) [*or* all those

(*a*) Stamp 6*d*. It may be noted that the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 191, enables the owner of the land by application to the Ministry of Agriculture and Fisheries, to redeem the annual payment; and under s. 50 of the same Act the Court may, on a sale of the land, declare the land freed from such payment. *Semble*, the owner has the powers of a tenant for life (Settled Land Act, 1925, ss. 1 (1) (v), 21 (1) (ix)) so that a conveyance by him to a purchaser of the fee simple or the residue of the term would overreach the annuity; but trustees for the purposes of the Settled Land Act, 1925, would have to be appointed. Note also that the annuity can be overreached by the machinery of s. 2 (2) of the Law of Property Act, 1925, as amended by the Law of Property Amendment Act, 1926, sched., or of s. 21 of the Settled Land Act, 1925; and see the 1926 Act, s. 1, as to the conveyance of land subject to any prior interest. A stipulation requiring a purchaser of the land to accept a title made with the concurrence of the annuitant would be void (Law of Property Act, 1925, s. 42 (1)), but see s. 43.

(*b*) Law of Property Act, 1922 (12 & 13 Geo. 5, c. 16), s. 128.

hereditaments known as —— demised by lease dated the —— day of —— and made between [*parties*] for the term of —— years from the —— day of ——] which are now vested in the said [*owner*] in fee simple [*or* for the residue of the said term]

AND WHEREAS the said [*owner*] has requested the said [*annuitant*] to release the said annuity, upon the terms hereinafter expressed,

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of the agreement on the part of the said [*owner*] hereinafter contained, the said [*annuitant*] will, at any time hereafter, at his request and expense, execute a release to him of the said hereditaments wholly free and discharged from her said annuity, such release being first approved by her solicitor on her behalf.

2. The said [*owner*] in consideration of the agreement on the part of the said [*annuitant*] hereinbefore contained, will, upon the execution of the said release by her, enter into and execute a bond, with [one] approved surety, for securing the due payment to the said [*annuitant*] of the said annuity during her life, [or during the life of the said [*name*]], by equal quarterly instalments, to be computed from the date of such assurance or release, with a proportionate part thereof up to the day of the death of the said [*annuitant*] [*or* the said [*name*]].

3. By way of further security for the said annuity the said [*owner*] will invest £—— in the names of two trustees to be chosen at all times by the said [*annuitant*] in such trust investments as the said [*annuitant*] shall from time to time select such investments to be held upon trust out of the income thereof, or in case of a deficiency out of the capital to pay the said annuity so long as the same shall be payable and subject thereto in trust for the said [*owner*].

[*Or*, 3A. The said owner will purchase in the name of the said [*annuitant*] (*c*) or in the names of trustees for the said annuitant a Government annuity of £—— payable during the life of the said [*annuitant*] [*or name*]].

[*Or*, 3B. The said owner will charge to the satisfaction of the said [*annuitant*] the annuity for which he agrees to give such bond as agreed upon ALL THOSE [*parcels*] of which the said [*owner*] is seised in unincumbered fee simple [*or* is entitled for the residue of a term of —— years from the —— day of —— by virtue of a lease dated the —— day of —— and made between [*parties*] and will duly pay the rent reserved by and perform and observe the covenants and conditions contained in the said lease and keep the said annuitant idemnified therefrom]. The said [*annuitant*] shall not investigate the title of the said [*owner*] to the said hereditaments.

4. All expenses of and incidental to the negotiation preparation and execution of these presents and any document act or thing to be executed or done in pursuance hereof shall be borne by the said [*owner*].

IN WITNESS, &c. [*Signatures of both parties.*]

(*c*) An agreement in this form entitles the annuitant to demand the capital value of such annuity in lieu of the annuity.

APPORTIONMENT.

26.

AGREEMENT for Apportionment of Rent of Leaseholds on Severance of Lessee's Estate (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. (hereinafter called the landlord) of the one part and [*lessee*] of &c. (hereinafter called the tenant of the other part).

WHEREAS by a lease dated the —— day of ——, and made between [*parties*] the hereditaments respectively described in the Schedule hereto [*or* the parcels of ground which together with the buildings recently erected thereon by the tenant, are now known by the several descriptions contained in the Schedule hereto] were demised unto [*original lessee*] for the term of [99] years from the date thereof, at the yearly rent of £——, and subject to the covenants on the part of the lessee and conditions therein contained

AND WHEREAS the said term of years is now vested in the tenant and the reversion expectant on the determination of the said term is now vested in the landlord

AND WHEREAS the tenant intends to offer the whole of the said leasehold hereditaments for sale in lots

AND WHEREAS all rent payable to the landlord under the said lease has been fully paid by the tenant down to the date of these presents as the landlord hereby acknowledges

AND WHEREAS the tenant has requested the landlord to make such apportionment as is hereinafter agreed to be made.

NOW IT IS HEREBY AGREED [in consideration of £—— now paid by the tenant to the landlord (the receipt whereof the landlord hereby acknowledges)] as follows :—

1. As from the date of these presents the said yearly rent shall be apportioned in manner following, that is to say :—There shall be issuing and payable in respect of the hereditaments numbered 1 in the Schedule hereto the yearly rent of £[10] and no more, and in respect of the hereditaments numbered 2 in the said Schedule, the yearly rent of £[10] and no more, and in respect of the hereditaments numbered 3 in the said Schedule the yearly rent of £[10] and no more (*e*).

2. The landlord shall enjoy as against the respective leasehold hereditaments all such rights, powers, and remedies for recovering payment of the respective apportioned rents and enforcing the covenants in the said lease as he previously enjoyed as regards the said entire rent of £ ——

(*d*) Stamp 10*s*.

(*e*) As to the covenant implied in the conveyances to the purchasers of the lots, when the rent has been so apportioned with the lessor's consent, see Law of Property Act, 1925 (15 Geo. 5. c. 20), s. 77 (1) (*c*).

in respect of the whole of the hereditaments comprised in the said lease [*if desired,* but so that such rights powers and remedies shall not be exercised against any particular hereditaments for breaches of covenants committed in respect of any other hereditaments specified in the Schedule hereto].

3. This agreement shall bind and benefit not only the parties hereto but also their respective successors in title. [PROVIDED ALWAYS that if no part of the said leasehold hereditaments shall be assigned by the tenant within six months of the date hereof, the apportionment hereby made shall be void, [but the landlord shall not be liable to repay to the tenant the said sum of £—— or any part thereof].]

In WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

No.	Description of hereditaments.	Apportioned rent.
1	No. 15 —— Road ——	£[10]
2	No. 16 —— Road ——	£[10]
3	No. 17 —— Road ——	£[10]

[*Signatures and seals of landlord and tenant.*]

27.

AGREEMENT for Apportionment of Rent of Leaseholds on Severance of the Reversion (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 26, p. 46, *supra*]

WHEREAS by a lease dated the —— day of —— and made between the landlord of the one part and the tenant of the other part the hereditaments specified in the schedule hereto were demised to the tenant for the term of —— years from the date thereof at the yearly rent of £—— and subject to the covenants on the part of the tenant and conditions therein contained,

AND WHEREAS the landlord intends to sell the reversion expectant on the determination of the said term in the hereditaments numbered 1 in the said Schedule and to retain the reversion in the hereditaments numbered 2 and 3 therein,

AND WHEREAS the landlord has requested the tenant to concur with him in making such apportionment as is hereinafter contained.

(*f*) Stamp 10*s*. See Law of Property Act, 1925 (15 Geo. 5, c. 20), ss. 140, 141, 142, and Law of Property (Amendment) Act, 1926, Sched.

NOW IT IS HEREBY AGREED as follows :—

1. [*Clause apportioning rent as in Form* 26, *clause* 1, p. 44, *supra.*]

2. This agreement shall bind and benefit not only the parties hereto, but also their respective successors in title.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Schedule as in Form* 26, p. 45, *supra.*]

[*Signatures and seals of landlord and tenant.*]

28.

AGREEMENT for Apportionment of a Mortgage Debt between Parts of the Mortgage Premises (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*mortgagee*] of &c. (hereinafter called the mortgagee) of the one part and [*mortgagor*] of &c. (hereinafter called the mortgagor) of the other part.

WHEREAS by a mortgage dated the —— day of —— and made between the mortgagor of the one part and the mortgagee of the other part all and singular the hereditaments and premises described in the Schedules hereto were vested in the mortgagee in fee simple subject to a proviso for redemption but are now by virtue of the Law of Property Act 1925 vested in the mortgagee for the unexpired residue of a term of 3000 years, subject to cesser on redemption of the same on payment by the mortgagor of the sum of £[5000] with interest thereon at the rate of £[6] per cent. per annum on a date long since past

[*Or*, WHEREAS by a legal charge dated the —— day of —— and made between the mortgagor of the one part and the mortgagee of the other part all and singular the hereditaments and premises described in the Schedules hereto were charged by way of legal mortgage with the payment to the mortgagee of the sum of £[5000] and interest at the rate of £[6] per cent. per annum thereby covenanted to be paid by the mortgagor]

AND WHEREAS the whole of the said principal sum of £[5000] is still owing on the security of the said mortgage [*or* legal charge] but all interest thereon has been paid down to the date of these presents

AND WHEREAS the mortgagor has requested the mortgagee to apportion the said principal sum of £[5000] between the hereditaments specified in the First and Second Schedules hereto respectively which the mortgagee has agreed to do in manner and on the terms hereinafter appearing.

NOW IT IS HEREBY AGREED as follows :—

1. From the date hereof a sum of £[3000] part of the said principal sum of £[5000] and interest thereon at the rate of £[6] per cent. per annum shall be charged exclusively upon the hereditaments specified

(*g*) Stamp 10*s*.

in the First Schedule hereto and a sum of £[2000] residue of the said principal sum of £[5000] and interest thereon at the aforesaid rate shall be charged exclusively upon the hereditaments specified in the Second Schedule hereto and such respective hereditaments shall be redeemable upon payment of such respective sums of £[3000] and £[2000] with such interest thereon as aforesaid.

2. Save as aforesaid all powers and provisions in the said mortgage [*or* legal charge] contained or implied by statute or otherwise shall continue of full force and effect.

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of hereditaments charged with* £[3000].]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of hereditaments charged with* £[2000].]

[*Signatures and seals of both parties.*]

ARBITRATION.

29.

CLAUSE Referring Future Differences to Arbitration (*h*)

EVERY difference which may hereafter arise between the parties hereto or any persons claiming under them in relation to this agreement or arising thereout whether as to the construction or operation thereof or the respective rights and liabilities thereunder or otherwise shall be referred to two arbitrators, one to be appointed by each party (whether consisting of one or more persons) to the difference or to an umpire to be appointed by the arbitrators before entering on the arbitration [*or if the arbitration is to a single arbitrator* to [*name*] of &c. or if he shall be unable to act or shall refuse or neglect to act for [seven] days after notice in writing of his appointment has been sent to him by some party to the difference then to some competent and unprejudiced person to be named by the President for the time being of the Institute of Surveyors [*or* of the Law Society *or as the case may be*]] such arbitration in every case and in all respects to conform with the provisions of the Arbitration Act, 1889 (*i*),

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(*h*) The forms under this heading relate to agreements by the parties to refer to their own tribunal the settlement of their disputes, and not to references for inquiry and report, or trial under ss. 88 to 97 of the Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. 5, c. 49). For the law of arbitration generally, see Halsbury's Laws of England, title "Arbitration," vol. 1, pp. 437 *et seq.*

(*i*) The provisions of the Arbitration Act, 1889, regarding references by agreement out of Court are mainly as follows:—By s. 1 of the Act, a submission (which by s. 27 is defined as a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not), unless a contrary intention is expressed therein, is to be irrevocable, except by leave of the Court,

applicable to such reference or any statutory modification thereof for the time being in force.

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and is to have the same effect as if made an order of Court. Formerly only a submission in an action was irrevocable without leave.

The power to give leave to revoke a submission is discretionary (*James* v. *James and Bendall* (1889), 23 Q. B. D. 12), and exercised by the Court with great caution (*Belcher* v. *Roedean School Site and Buildings, Ltd.*, [1901] 85 L. T. 468; *S. S. Den of Airlie Co., Ltd.*, v. *Mitsui & Co., Ltd., and British Oil & Cake Mills, Ltd.* (1912), 106 L. T. 451).

By sect. 2, a submission, unless a contrary intention is expressed therein, includes the provisions set forth in the first schedule to the Act, viz.:

(i) If no other mode of reference is provided, the reference shall be to a single arbitrator.

(ii) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(iii) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

(iv) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(v) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

(vi) The parties to the reference, and all parties claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings, and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require; see *Ramsden & Co.* v. *Jacobs*, [1922] 1 K. B. 640.

(vii) The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

(viii) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

(ix) The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

By s. 3 the submission may be to an official referee. By s. 4 legal proceedings may be stayed where there is a submission. By s. 5 the court has power to appoint an arbitrator, umpire, or third arbitrator; see the Administration of Justice Act, 1920 (10 & 11 Geo. 5, c. 81), s. 16, which is to be construed as if included in the Arbitration Act, 1889. By s. 6 the parties have the power of supplying vacancies. By s. 7 arbitrators have power to state a special case and correct clerical errors. By s. 8 witnesses may be summoned by subpœna. By ss. 9 to 11 the court may enlarge the time for making an award, or remit an award for reconsideration, remove an arbitrator, and set aside the award. By s. 12 the award may, by leave, be enforced as a judgment. By R. S. C. Ord. 54, rule 12a, a master of the Supreme Court may exercise all the powers conferred upon the Court by the Arbitration Act, 1889.

30.

AGREEMENT for Reference of Existing Disputes to a Single Arbitrator (*j*).

AN AGREEMENT made the —— day of —— BETWEEN [*one party*] of &c. of the one part and [*other party*] of &c. of the other part.

WHEREAS differences have arisen between the parties hereto relating to [*state the matters in dispute, e.g.* their respective rights and liabilities under an agreement dated the —— day of —— and made between [*parties*] *or* their respective rights under a partnership now existing between them *or* divers receipts and payments by the said [*one party*] on behalf of the said [*other party*].]

NOW IT IS HEREBY AGREED as follows :—

1. [*Arbitrator*] of &c. shall determine all such differences as aforesaid, and each party hereto shall perform and abide by every direction given by the said [*arbitrator*] to such party whether during such arbitration or for the purpose of giving effect to any award to be made thereon.

2. The said [*arbitrator*] shall have all the powers conferred on arbitrators by the Arbitration Act, 1889 (*k*), and may obtain the advice or assistance of any professional or expert person or persons, and any fees paid by the arbitrator to such person or persons shall be costs of the arbitration.

3. The arbitration shall conform in all respects to the provisions of the Arbitration Act, 1889, and the submission to arbitration constituted by this agreement shall not be revoked by the death of either party (*l*).

4. In the event of either party neglecting to attend before him after such written notice as the said [*arbitrator*] may think reasonable the said [*arbitrator*] may proceed with the arbitration in the absence of and without further notice to such party (*m*).

IN WITNESS, &c.

[*Signatures of both parties.*]

(*j*) Stamp 6*d.* if value of matter in dispute exceeds £5 (*Lloyd* v. *Mansell* (1850), 19 L. J. Q. B. 192). If not, no stamp (Stamp Act, 1891 (54 & 55 Vict. c. 39), ss. 1, 22 ; Sched. I, " Agreement ").

(*k*) See p. 47, note (*i*), *ante.*

(*l*) A submission at common law or under the Arbitration Act, 1889, is, unless otherwise expressly or impliedly agreed, revoked by the death of either party. See Halsbury's Laws of England, title " Arbitration," vol. 1, p. 450.

(*m*) For the duties of the arbitrator where one of the parties refuses to attend, see *ibid.* pp. 460, 461.

31.

AGREEMENT for Reference to Arbitration of a Particular Dispute (*n*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREAS the vendor lately sold for £—— a horse named —— to the purchaser and on such sale warranted the said horse to be sound in wind and limb, quiet to ride and drive, and free from vice

[*Or*, WHEREAS the vendor recently sold to the purchaser for £—— a cargo of spice [*or as the case may be*] and warranted such cargo to be equal to a sample previously supplied to the purchaser]

AND WHEREAS the purchaser alleges that the said horse was not at the date of the said sale and is not now sound in wind and limb [*or* quite to ride and drive *or* free from vice]

[*Or*, AND WHEREAS the purchaser alleges that the said goods are not equal in quality to the said sample]

AND WHEREAS an action, the short title whereof is [*short title of action and reference to the record*] is now pending in the [King's Bench Division] of the High Court of Justice in which the purchaser as plaintiff claims against the vendor as defendant repayment of the said sum of £—— and damages for breach of the said warranty.

NOW IT IS HEREBY AGREED as follows :—

1. All matters in dispute in the said action are hereby referred for decision to [*arbitrator*] of &c. (hereinafter called the arbitrator) whose award shall be binding on the parties hereto.

2. The said action shall be forthwith discontinued by the purchaser and the vendor shall consent to such discontinuance.

3. The costs of the said action and of the arbitration and award shall be borne and paid as the arbitrator shall by his award direct [*or* shall follow the event of the said award] [*or* the costs of each party of the said action and of the arbitration shall be borne by such party, but the costs of the award shall be paid by the parties in equal shares].

4. The arbitrator having expert knowledge of the subject in dispute shall not be required to take the evidence of any witness unless he think fit and may decide the question in dispute without hearing the vendor or the purchaser by counsel, solicitor, or otherwise on an examination of the said horse [*or* the said cargo and sample].

5. [*Clause declaring arbitration to be pursuant to Arbitration Act*, 1889, *as in Form* 30, *clause* 3, p. 49, *supra*, *adding* or bankruptcy *after the word death.*]

(*n*) Stamp. See p. 49, note (*j*), *ante*.

6. The arbitrator may direct either party to pay any sum of money or do or submit to any act or execute any instrument for the purpose of carrying his award into effect.

IN WITNESS, &c.

[*Signatures of both parties.*]

32.

AGREEMENT for Reference of Disputes under a Building Contract (*o*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*builder*] of &c. (hereinafter called the builder), of the one part, and [*employer*] of &c. (hereinafter called the employer) of the other part.

WHEREAS by a contract dated the —— day of ——, and made between the parties hereto, the builder in consideration of £—— to be paid to him in manner therein mentioned, agreed with the employer to build a dwelling house and outbuildings at ——, in the parish of —— according to a certain plan and specification to the said contract annexed [*or* hereunto annexed] [*Or*, to the following specification [*setting it out if short*] (*p*)] and to complete the whole of the said buildings on or before the —— day of —— last, and it was agreed that on the completion thereof accordingly the employer should pay to the builder the said sum of £——, but that in case default should be made in the completion thereof on or before that day the builder should forfeit the sum of £——

AND WHEREAS differences have arisen, between the parties respecting the erection of the said dwelling-house, and buildings, and also touching the due performance of the said contract, and other matters connected therewith, and in particular the following matters:—[*set out specific matters in respect of which default is alleged, e.g.*—

(*a*) Whether the builder is entitled to be paid any and what sum for work alleged by him to be extra work,

(*b*) Whether the internal woodwork supplied by the builder is according to the said specifications,

(*c*) Whether the builder is liable for any and what penalty or damages by reason of delay in completion of the said dwelling-house].

NOW IT IS HEREBY AGREED as follows:—

1. There shall be referred to the arbitration of [*arbitrator*] of &c. who has been appointed by the builder and [*arbitrator*] of &c. who has been appointed by the employer or [*umpire*] of &c. who has been duly

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(*o*) Stamp 6*d*.

(*p*) It is unnecessary to state the subject-matters of the reference with great minuteness in the agreement, as that is afterwards done by the solicitors when instructing the arbitrators; but it is always well to give here a succinct and clear view of all of them as well as the objects of the reference.

appointed by the said [*arbitrators*] to act as umpire the specific matters in dispute as hereinbefore recited and also all other matters of difference (if any) arising under the said contract of which either party shall give written notice to the other party and to the said [*arbitrators*] [seven] days at least before the day fixed by the said [*arbitrators*] for commencing the arbitration.

2. The parties hereto shall abide by, observe, and perform the directions and award of the said [*arbitrators*] or their said umpire.

3. The said award shall be made under the hands and seals of the said [*arbitrators*] or their said umpire, on or before the —— day of —— next, or within such extended time not exceeding altogether —— days, as the said [*arbitrators*] or their said umpire shall from time to time appoint by indorsement on these presents.

4. The arbitration shall be conducted in all respects pursuant to the provisions of the Arbitration Act, 1889, save where such provisions are inconsistent with the express stipulations of these presents.

5. If either party shall by unreasonable delay or otherwise prevent, or impede the arbitration or the making of the award the arbitrator appointed by the other of them or the said umpire may proceed alone and make such award as he shall think fit, and his decision and determination shall be final and conclusive upon both the parties hereto, to all intents and purposes whatsoever.

6. The said [*arbitrators*] or the said umpire shall have full power to prohibit and discontinue all actions and proceedings whatsoever depending between or which may be commenced by the parties hereto or either of them during the said arbitration, and to order mutual releases to be executed by them, and also to give such directions and make such orders in the matters so referred to them as they or he shall think just.

7. The submission hereby made shall not be revoked either by the death, or incapacity, or any act of either party hereto, but the said [*arbitrators*] or the said umpire shall proceed as if no such act or event had occurred.

8. If either of the said [*arbitrators*] shall die or refuse or become incapable to act or to proceed in the business of the said arbitration, the party appointing him shall have power to choose another in his stead and such substituted arbitrator shall have all such powers and authorities as he would have if he had been originally appointed by these presents.

9. The costs of the reference and award and the costs of any action discontinued under clause 6 hereof shall be in the discretion of the said [*arbitrators*] or the said umpire who shall state in the award which of the parties hereto shall pay and bear the same.

IN WITNESS, &c.

[*Signatures of both parties.*]

33.

AGREEMENT for Reference by Trustee of Bankrupt Creditor and Executors of Deceased Debtor (*q*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*trustee in bankruptcy*] of &c. (hereinafter called the trustee), the trustee in bankruptcy of [*creditor*] of &c. (hereinafter called the bankrupt) of the first part, [*members of committee of inspection*] of &c. of the second part, and [*executors of deceased debtor*] of &c. (hereinafter called the executors) of the other part.

WHEREAS the bankrupt lately prepared certain models and plans at the request of [*deceased debtor*] which models and plans were duly delivered to the said [*deceased debtor*] but no account of the charges and fees of the bankrupt in respect thereof were ever delivered to the said [*deceased debtor*] in his lifetime nor was any agreement made as to the amount of such fees and charges

AND WHEREAS the said [*deceased debtor*] died on the —— day of ——, having by his will dated the —— day of —— appointed the executors to be executors thereof, all of whom duly proved the said will on the —— day of —— in the —— Probate Registry

AND WHEREAS by an order of the High Court of Justice in Bankruptcy [*or* of the County Court of —— holden at ——] made on the —— day of —— the bankrupt was duly adjudicated bankrupt, and on the —— day of —— the trustee was duly appointed trustee of the bankrupt's property and such appointment has been duly certified by the Board of Trade.

AND WHEREAS the parties hereto of the second part have been duly appointed to be the committee of inspection in the said bankruptcy

AND WHEREAS differences have arisen as to the claim of the bankrupt against the estate of the said [*deceased debtor*], the trustee claiming £—— in respect of the said models and plans and the executors alleging that such models and plans were unskilfully prepared and were useless for the purpose for which they were intended, and further that the said claim of the trustee is in any event exorbitant

AND WHEREAS the trustee with the consent of the parties hereto of the second part (testified by their execution of these presents) and the executors in exercise of the power in this behalf conferred upon them by section 15 of the Trustee Act, 1925, and all other powers them hereunto enabling have agreed to submit the said differences to arbitration

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(*q*) Stamp, see note (*j*), p. 49, *ante*. The permission of the Committee of Inspection is required: (Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 47), s. 56). A sole creditor cannot exercise the functions of such Committee: (*ibid.* s. 20 (2); *re Geiger*, [1915] 1 K. B. 439). If there is no Committee the permission of the Board of Trade must be obtained (*ibid.* s. 20 (10); Bankruptcy Rules, 1915, r. 324).

NOW IT IS HEREBY AGREED between the trustee and the executors as follows :—

1. It is hereby referred to [*arbitrator*] of &c. appointed by the trustee and [*arbitrator*] of &c. appointed by the executors or if and as to such matters only as to which such persons fail to agree to their umpire to be appointed by them in writing before entering upon the arbitration to determine whether any and what sum is payable to the trustee by the executors and whether the executors are entitled to set off against the claim of the trustee any claim for damages or otherwise by reason of the alleged unskilful preparation of the said models and plans.

2. The umpire may adopt in his award the decision of the arbitrators upon any matters in which they may be agreed or may make a separate award upon the particular matters referred to him by the arbitrators and the award of the umpire and the award (if any) made by the arbitrators shall for the purposes of these presents be deemed a single award.

3. To save expense the umpire may sit and take the evidence with the arbitrators and may from time to time examine witnesses and decide any question as to admissibility of evidence referred to him by the arbitrators. He may accept any conclusion of fact arrived at by the arbitrators or may require fresh evidence on any point referred to him.

4. The provisions of the Arbitration Act, 1889, so far as not inconsistent with these presents shall apply to this arbitration.

5. The submission to arbitration herein contained shall not amount to an admission by the executors of assets of the said [*deceased debtor*] to answer any award to be made in pursuance hereto nor shall the executors or the trustee be liable to perform such award save in so far as they or he may have assets of the said [*deceased debtor*] or the bankrupt as the case may be available for the purpose.

6. [*Power to appoint new arbitrators as in Form* 32, *clause* 8, p. 52, *supra.*]

7. The executors and the trustee will do or cause to be done all things necessary to enable the arbitrators or umpire to make an award as promptly as possible and will carry out all directions given to them by the arbitrators or umpire during the progress of the arbitration.

8. The submission hereby constituted shall not be revoked by the death of any party hereto.

IN WITNESS, &c.

[*Signatures of all parties.*]

34.

AGREEMENT for Reference of Partnership Disputes to Arbitration by Three Arbitrators (*r*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*first partner*] of &c. of the first part [*second partner*] of &c. of the second part, and [*third partner*] of &c. of the third part.

(*r*) Stamp 6*d*. See Administration of Justice Act, 1920 (10 & 11 Geo. 5, c. 81) s. 16.

WHEREAS the parties hereto have for some years past carried on in copartnership the business of [silk manufacturers] at —— in the city of —— under articles of partnership dated the —— day of —— (hereinafter referred to as the articles)

AND WHEREAS differences have arisen between the parties hereto as to certain alleged breaches of the articles by the said [*first partner*] and [*second partner*] and as to the accounts of the partnership

AND WHEREAS in pursuance of clause —— of the articles the parties hereto have referred the said differences to the arbitration of [*names of three arbitrators*] of &c. who have duly appointed [*umpire*] of &c. to be their umpire.

NOW IT IS HEREBY AGREED as follows :—

1. Each of the parties hereto shall within —— days from the date of this agreement [*or* —— days at the least before the day appointed by the arbitrators for their first sitting] furnish to the other parties hereto and also to the arbitrators full particulars in writing of the claims and objections which he proposes to submit to the arbitrators.

2. Each party hereto shall attend the said arbitration personally and shall produce to the arbitrators all books, papers, accounts, vouchers, invoices and other documents in his possession or under his control relating to the matters referred to arbitration and shall give the arbitrators all information and explanation in his power relating thereto.

3. [*Arbitration to be conducted according to the Arbitration Act*, 1889, *as in Form* 33, *Clause* 4, p. 54, *supra*.]

4. Besides the specific points in dispute the arbitrators may award that the partnership be dissolved from such date as they may fix and may give directions for the winding up of the affairs of the partnership and may appoint one or more of the parties hereto or some other person or persons receiver for the purpose of such winding up. Each party hereto shall execute such documents and notices and do such acts as the arbitrators direct for the purpose of carrying the award into effect.

5. If the arbitrators cannot agree the umpire shall have all the powers hereby conferred on the arbitrators but unless the umpire considers it necessary that he should himself hear witnesses he shall be entitled to make his award upon a report by the arbitrators as to all or any part of the evidence given before them.

6. The arbitrators or umpire may submit to a competent accountant whom they or he may select any accounts which they or he consider ought to be examined for the purpose of the arbitration and may act upon the report of such accountant without personally verifying the accuracy of such accounts or report. The arbitrators or umpire may also at any stage take the opinion of counsel on any point of law arising in the course of the arbitration and accept such opinion as conclusive.

7. The costs of the arbitration and award shall follow the event of the award unless the award otherwise directs.

8. The submission effected by the Articles and this agreement shall not be revoked by the death of any party hereto.

IN WITNESS, &c.

[*Signatures of all parties.*]

35.

AGREEMENT for Reference of Disputes under a Mining Lease (full form) (*s*).

THIS AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. (hereinafter called the lessor) of the one part and [*lessee*] of &c. (hereinafter called the lessee) of the other part.

WHEREAS by a lease dated the —— day of —— and made between the lessor of the one part and the lessees of the other part the lessor demised to the lessee all those mines beds or seams of coal [called ——] lying under the several pieces of land in the parish of —— in the county of —— more particularly described in the Schedule hereto and delineated on the plan annexed to the said Schedule together with the easements rights and privileges in connection with the said mines or seams therein mentioned for the term of —— years from the —— day of —— subject to the rents and royalties thereby reserved and to the covenants and conditions therein contained

AND WHEREAS disputes have arisen between the parties hereto concerning certain alleged breaches of some of the covenants and conditions in the said lease contained arising from the method of working the coal adopted by the lessee during the said term

[*Or*, concerning the amount of rent and royalty now properly payable by the lessee to the lessor under the said lease

Or, concerning certain allowances claimed by the lessee in respect of coal alleged to be incapable of being worked at a profit .

Or, concerning the compensation payable by the lessee to the lessor for the damage occasioned to certain cottages of the lessor by the alleged neglect or omission of the lessee to leave sufficient support for the same

Or, concerning certain underground trespasses by the lessee upon and the working and getting of the coal under adjoining land belonging to the lessor and not included in the said lease

Or, concerinng the amount payable by the lessor to the lessee as the value of the movable machinery plant and things used in connection with the demised mines and left by the lessee on the expiry of the said term and which machinery plant and things the lessor under a power in that behalf given by the said lease elected to purchase]

AND WHEREAS the parties hereto, for the purpose of finally adjusting all matters in dispute and difference between them, have agreed to refer the same to arbitration as hereinafter mentioned.

(*s*) Stamp 10*s*.

NOW IT IS HEREBY AGREED as follows : —

1. All matters in dispute between the lessor and the lessee shall be referred to [*arbitrators*] of &c. or their umpire to be appointed as hereinafter mentioned.

2. The parties, their respective heirs, executors, and administrators, will duly abide by, and perform the award of the said [*arbitrators*], or of such other person as they shall, before entering upon the business of the said reference, appoint as umpire therein, by writing, to be hereupon endorsed.

3. The award of the said [*arbitrators*] shall be made in writing under their respective hands and seals, and published within the space of —— calendar months from the date hereof [*or* on or before the —— day of —— next], or within such extended period as they shall from time to time appoint, not exceeding, in the whole, —— days.

4. If the said [*arbitrators*] shall not agree upon and make and publish their award of and in the premises within the time hereinbefore appointed for that purpose or within such extended period as aforesaid, it shall be lawful for the said umpire to act with all the powers of the said [*arbitrators*] and to make and publish his award in writing of and in the said premises.

5. The award of the said umpire shall be binding and conclusive on both the said parties in all respects, and to all intents and purposes whatsoever, as if the said [*arbitrators*] had disagreed and referred the same to his decision under the power for that purpose hereinbefore contained, but his award shall be made and published under his hand and seal within —— calendar months from the date hereof.

6. If either of the said parties hereto or [*arbitrators*] shall, for the space of —— days from the date hereof, refuse or neglect to enter upon the said reference, or, if either arbitrator shall commence the same and, for the like space of time, refuse or neglect to proceed therein, or if either of the parties shall, unreasonably delay or hinder the same, or the said [*arbitrators*] from entering upon the same, within the time appointed for that purpose or within such extended period or periods as aforesaid, it shall be lawful for the arbitrator of the other party after —— days' clear notice in writing to the party or parties in default to proceed alone in the said reference and to make his award therein. Such award shall be as binding and conclusive upon both the parties hereto in all respects and to all intents and purposes as if the other arbitrator had concurred therein.

7. The said [*arbitrators*] or umpire shall have full power and authority, at their discretion, to order the discontinuance of any action, suit or other proceeding pending between the said parties as aforesaid or which shall be commenced by either of them during the time hereinbefore allowed for the said reference, or such enlarged period or periods as aforesaid, and to order that releases or discharges shall be executed and delivered, by the parties hereto, in respect of all matters and things so in difference between them and referred as aforesaid.

8. The said [*arbitrators*] may make such regulations and give such orders and directions, in all respects, as they shall deem expedient, as well

in and about the said matters and premises as also with respect to the mode and times of executing and performing any of the acts, deeds, matters, and things which may be awarded or directed to be done.

9. The parties and their respective witnesses shall, from time to time, when required by the said [*arbitrators*], attend and submit to be examined and cross-examined, upon oath or affirmation if required, relating to all or any of the matters so referred as aforesaid [*if desired*, and the umpire shall be at liberty to act upon all or any part of the evidence so taken before the arbitrators and to make his award thereupon].

10. The parties hereto will, when and as often as required by the said [*arbitrators*], produce upon oath or affirmation and deposit with them all or any of the title-deeds, writings, account-books, securities, papers, vouchers, documents, evidences and things in their custody or powers respectively, touching or concerning the same, and in default thereof the said [*arbitrators*] may proceed with the said reference at discretion as if no such evidence has ever existed.

11. The power hereby given to the said [*arbitrators*] shall not be revoked or determined by either of the said parties or by the death, insolvency, legal incapacity, or disability of either of them, but the said [*arbitrators*] shall, notwithstanding any or either of such events, proceed in the business of the said reference as if no such event had happened, and the decision of the said [*arbitrators*] or umpire in the premises, shall, notwithstanding such events, be binding and conclusive upon the said parties and those claiming under them.

12. No action or other proceedings shall be commenced or prosecuted against the said [*arbitrators*] concerning the matters hereinbefore referred to them, or their award after the same shall have been so made as aforesaid or for the purpose of avoiding the same, unless some collusion or fraud shall be discovered therein.

13. Each of the said parties hereto binds himself, his heirs, executors and administrators unto the other of them, his heirs, executors and administrators in the sum of £—— for the due performance of the stipulations and agreements on his part hereinbefore expressed, and of the award, which shall be so made as aforesaid, and of every order and direction, which shall be therein contained, and which shall be required to be done, observed and performed by him or them respectively.

14. The said [*arbitrators*] shall have full power to award all the costs of any such actions and of this reference, and all other expenses whatsoever of and attending the same, and the said award to either or both the parties hereto in such manner as the said [*arbitrators*] shall, in their discretion, deem just and the same shall be borne and paid by and to the said parties accordingly, and at such time or times, and in such sum or sums as shall thereby be ordered or directed to be borne and paid [and shall be reckoned, taxed and allowed in all things as between party and party, and not as between solicitor and client].

15. In case either of the said [*arbitrators*] shall die, refuse, neglect or become incapable to act or proceed in the said reference, it shall be

lawful for the party by or on whose behalf such arbitrator was chosen to appoint any other person to act as arbitrator in his place, and such substituted arbitrator shall have and may exercise the same powers and authorities in all respects as if he had been originally appointed under or by virtue hereof.

16. In case the party whose arbitrator shall have died, refused, neglected or become incapable to act as aforesaid shall refuse or neglect to appoint such new arbitrator within —— days next after such event, it shall be lawful for the arbitrator of the other party to proceed alone in the said reference and his decision therein shall be as final and conclusive, in all respects and to all intents and purposes whatsoever, as the decision of both the said arbitrators would have been in case such event had not happened.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

36.

AGREEMENT for Substituting one Arbitrator for Another (*t*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*first party to the original agreement*] of &c. of the one part and [*other party*] of &c. of the other part, SUPPLEMENTAL to an agreement dated the —— day of ——, and made between the same parties as are parties hereto and in the same order (hereinafter called the principal agreement).

WHEREAS by the principal agreement the parties hereto agreed to refer certain matters in dispute between them to the arbitration of [*original arbitrator*]

AND WHEREAS the said [*original arbitrator*] duly entered upon the said reference and died without making any award.

NOW IT IS HEREBY AGREED as follows:—

1. The said matters in dispute are hereby referred to the arbitration of [*new arbitrator*] who shall have all such powers and shall conduct the said arbitration in such manner as if his name had been inserted in the principal agreement as arbitrator in the place of the name of the said [*original arbitrator*].

2. The said [*new arbitrator*] shall make his award upon the evidence adduced before the [*original arbitrator*] (a transcript of the shorthand note of which shall be furnished to him by the parties at their joint expense) unless the said [*new arbitrator*] shall deem it necessary that evidence should be taken before himself [*or if no shorthand note was taken* The parties will at their joint expense furnish the said [*new arbitrator*] with a copy of the notes of the evidence made by the [*original arbitrator*] and will pay

(*t*) Stamp 6*d*. The substitution can also be effected by indorsement: see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 1, Form 45, p. 581. As to the substitution of one arbitrator for another under the Acquisition of Land (Assessment of Compensation) Act, 1919, see *Gross, Sherwood and Heald, Limited* v. *Essex C.C.*, [1927] 1 Ch. 205.

all fees necessary for procuring such notes, and the said [*new arbitrator*] shall as far as possible make his award upon the evidence as set forth in such notes].

3. Save as hereinbefore varied the principal agreement shall continue of full force and effect.

IN WITNESS, &c.

[*Signatures of both parties.*]

BUILDING.

37.

AGREEMENT for Making a Private Road (*u*).

AN AGREEMENT made the —— day of —— BETWEEN [*employer*] of &c. of the one part and [*contractor*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*contractor*] will forthwith lay out according to the dimensions stated in the plan hereunto annexed and within —— weeks from the date hereof, form, make, and complete a road —— feet long, and —— feet wide, with a footpath or causeway —— feet wide along the entire length of the said road, on each side thereof, in accordance with the levels and sections shown on the said plan such road to be made in a field belonging to the said [*employer*] situate at a place called or known as ——, at ——.

2. The said [*contractor*] will construct the said road and footpath in a workmanlike and efficient manner and to the approval of the surveyor of the said [*employer*] in accordance with the annexed specification.

[*If no specification is annexed,* The said [*contractor*] shall in particular do all and every of the things hereinafter mentioned, namely :—

(i) Excavate for and lay a twelve-inch sewer with the junctions and manholes or inspection chambers as shown on the said plan and in accordance with the by-laws in force within the [Urban] Rural District of —— and after the same has been tested by the District Council's Surveyor fill in and consolidate the ground around the same.

(ii) Excavate the soil or earth forming the surface of the said intended road to an average depth of —— inches at the least.

(iii) Fill in the site so excavated with rubble, broken brick, gravel, or other suitable substances so as to form an efficient foundation for the said road and paths and well stamp down and ram the same.

(iv) Excavate the gravel for the said road and footpaths as near the said footpaths as may be proper, and fill up the holes or pits

(*u*) Stamp 6*d*. It is better that a specification of the work should be prepared by the employer's surveyor and annexed to the contract. For cases on the construction of Building Contracts generally see the English and Empire Digest, vol. 7, pp. 328 *et seq.*

formed by such excavations with the soil or earth taken from the said road and footways.

(v) Cover the said foundation when so formed with heather, furze, or brushwood at least —— inches thick.

(vi) Spread over metal and cover the foundations so formed of the said road with gravel —— inches thick [*or* granite *or other material agreed upon*], and the foundations of the said footpaths with gravel —— inches thick and level and perfect the surface of the said road and footpaths.

(vii) Curb channel and gutter the said road throughout.

(viii) Remove all surplus soil and rubbish from off the said field to such place or places as the said [*employer*] may direct and leave the said road and footpaths and the parts of the field adjoining them affected by such works in a proper state, order and condition.

(ix) To take all necessary precautions for watching lighting and guarding the works while in progress and to indemnify the employer against all actions claims and damages whatsoever.

3. The said [*employer*] will pay the said [*contarctor*] at the rate of £—— for each superficial perch of the said road and footpaths, such payment to be made on the final completion of the same to the approval of the said [*employer's*] surveyor.

[*Or.* 3A The said [*employer*] will pay the said [*contractor*] £—— on the completion of the excavation of the road and footpaths, £—— on the completion of the said foundations and £—— on the final completion of the said road and footpaths fit for traffic. But the said [*employer*] shall not be liable to make any payment unless his surveyor shall have first certified in writing that the same is properly payable.]

4. The said [*contractor*] shall pay to the said [*employer*] £—— as liquidated damages for every day after the expiration of —— weeks from the date hereof during which the said road or footpaths remain incomplete.

5. The said [*employer*] may determine this agreement by notice in writing to the said [*contractor*] sent by registered post to his last known place of business if the said [*contractor*] shall commit a breach of any stipulation on his part herein contained, or shall become bankrupt or make any arrangement with his creditors, and the death of the said [*contractor*] shall in any case determine this contract. In the event of any such determination the said [*employer*] shall be liable to pay only such sum as his surveyor shall certify in writing to be the fair value of the work already done by the said [*contractor*].

6. The said [*contractor*] shall not assign the benefit or burden of this agreement to any other person without the consent in writing of the said [*employer*].

7. In this agreement the surveyor of the said [*employer*] shall mean Mr. —— of &c. or in the event of his unwillingness or incapacity to act

the surveyor for the time being of the —— Rural District Council (*a*). The charges of such surveyor shall be paid by the said [*employer*].

8. If any dispute shall arise between the parties as to the meaning or effect of this agreement or as to the said sewer road and footpaths and the work done or to be done thereon the same shall be referred for decision to —— of &c. or if he shall be unwilling or unable to act to —— of &c. The decision of such referee shall be final and binding on the parties hereto.

IN WITNESS, &c.

[*Signatures of both parties.*]

38.

AGREEMENT for Building a Dwelling-house where Owner supplies Materials and no Architect is Employed (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*builder*] of &c. (hereinafter called the builder) of the other part,

WHEREBY IT IS AGREED AS FOLLOWS:—

1. The builder will erect and build for the owner on the owner's land, situate at, &c. and at the spot indicated by the colour —— on the plan, marked No. 1, hereunto annexed and signed by both parties hereto a dwelling-house, offices, and outbuildings, in a substantial and workmanlike manner and in all respects to the satisfaction of the owner and will supply all necessary labour and tools (but not materials) for the purpose, such buildings and works to be executed and completed in all respects according to the specifications with the ground and elevation plans hereunto annexed and marked Nos. 2 and 3, and signed by the parties hereto but subject to such directions as hereinafter mentioned.

2. The builder will completely finish the said dwelling-house fit for occupation, and all the said offices and outbuildings fit for use, and remove all plant and rubbish off the premises on or before the —— day of —— next [*or* within —— months from the date on which he is admitted on the ground for the purpose of building] unless prevented by accidents, weather, strikes, or additions, or alterations ordered by the owner in writing [*or* other reasonable cause].

3. The owner will pay the builder weekly during the progress of the said buildings and works such sum or sums of money as may be sufficient for paying for the actual cost of the labour performed in the due course of such buildings and works together with a sum equal to £—— per cent. of such cost which shall constitute the builder's profit.

4. The owner will at his own cost and expense, find and provide at convenient places near the said site all materials whatsoever necessary

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(*a*) In an agreement of this kind it is desirable that the surveyor should be a person acceptable to both parties or at least an impartial person.

(*b*) Stamp 6*d*.

for the erection and completion of the said dwelling-house, offices, buildings, and works, and pay all expenses of and attending the carriage thereof and will also give all notices to and obtain the necessary sanction of the local authority to the said plans specifications buildings and works. The builder shall be responsible for all materials delivered by the owner on the premises and shall be charged with any deficiency between the amount delivered and the amount actually used in building but all usual allowances for waste shall be made.

5. If the owner shall require any deviation from the said plans and specifications or any more or other buildings or works to be done than those described therein the builder shall consent to such deviations, and, on the owner finding at his own expense proper and sufficient materials and carriage for the same as aforesaid duly execute such extra or additional works in a proper, substantial, and workmanlike manner, in all respects, according to such altered plans and specifications, and within the time prescribed by (*c*), and to the satisfaction of the owner. The cost of such deviations alterations and additions shall be estimated and paid in the manner provided by clause 3 hereof.

6. The builder shall indemnify the owner in respect of all claims, damages, compensation, or expenses payable in consequence of any accident or injury sustained by any workman or other person whether in the employment of the builder or not.

7. If the builder shall become bankrupt or execute an assignment for the benefit of creditors, or otherwise become unable to carry out the work, or if without the written consent of the owner he shall assign or sub-let this contract, the owner may by notice in writing sent by registered post to the builder or left on the site of the said buildings thereupon terminate this contract, and all claim of the builder under this contract shall thereupon cease.

8. If the builder shall in any manner delay or neglect to completely finish the said dwelling-house, offices, buildings, and additional buildings and works, or any or either of them, within the times prescribed for the purpose as aforesaid it shall be lawful for the owner by such notice as aforesaid to require the builder to proceed with such works and on his failing to do so accordingly to employ any other builder to continue and complete the said dwelling-house, offices, and buildings, additional buildings and works, if any, according to the said plans and specifications, or any deviations therefrom and to authorise him to use any plant, materials and property of the builder upon the ground and the builder shall in such case forfeit and forego all his interest whatsoever under this contract.

9. In the events specified in clauses 7 or 8 hereof or any of them, the builder will not in any manner hinder or prevent, or attempt to hinder or prevent, the owner or any of the workmen and others employed by him from proceeding to complete the said buildings and works as aforesaid.

(*c*) As to the necessity for carefully providing for additional time in case alterations and extras are required, see *Jones* v. *St. John's College* (1870), L. R. 6 Q. B. 115.

10. In case any dispute or difference shall arise between the parties touching or relating either to the said buildings or works, or to any other matter or thing arising under this contract, the same, and every of them, shall be referred to [*architect*] of &c. or him failing to [*architect*] of &c. who alone shall consider, value, and determine the same, and whose certificate or award shall be binding and conclusive upon both the said parties.

IN WITNESS, &c.

[*Signatures of both parties.*]

39.

AGREEMENT for Building Dwelling-houses where Builder supplies Materials and an Architect is Employed (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 38, p. 62, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The builder shall forthwith erect and build in a substantial and workmanlike manner —— messuages with offices and outbuildings upon the plot of ground belonging to the owner and coloured red on plan No. 1 hereto annexed in accordance with the plans sections elevations and specifications signed by both parties and hereto annexed and subject to the directions of [*architect*] of &c. the architect of the employer or of any other architect for the time being employed by the owner for the purpose of supervising and certifying the work hereby agreed to be done (hereinafter called the architect).

2. The builder shall complete the said messuages and outbuildings so as to be fit for occupation, and remove all surplus material, plant and rubbish off the premises on or before the —— day of —— unless prevented by strikes, accidents, weather or other reasonable cause, in which case the architect shall have power to extend the time.

3. The builder shall provide all bricks, stone, tiles, slates, lime, wood, pipes, iron, lead, timber, wood, glass, and all other materials and all scaffolding, plant, tools and tackle necessary for the purpose of completing the said messuages and outbuildings, all of which shall be the best of their kind and approved by the architect. The builder shall also supply duly qualified and experienced artisans, workman and foremen to carry out the work.

4. The builder shall forthwith remove all materials brought upon the premises of which the architect disapproves and shall pull down and rebuild any part of the building which is not built to the architect's satisfaction, and any certificate given by the architect under clause 9 hereof shall not discharge the builder from liability under this clause.

5. Until the completion of the work all materials plant and things brought on the premises by the builder shall be deemed to be the property

(*d*) Stamp 6*d*.

of the owner, but he shall not be under any liability for loss thereof or damage thereto arising from any cause whatsoever (*e*).

6. The builder will give all necessary notices to and obtain the requisite sanction of the local authority in respect of the said work and generally comply with the building and other regulations of such authority and will keep the owner indemnified against all fines, penalties and loss incurred by reason of any breach of this stipulation.

7. If the owner shall require any deviation from the said plans drawings and specifications or any additional or other work to be done than that described therein the builder will carry out the work according to such requirement and do the additional work or other work in a substantial and workmanlike manner within the time prescribed by and to the satisfaction of the architect who shall estimate and value the same [according to the prices contained in the specification and if such work is not priced therein] at the fair value thereof and the owner shall on the final completion of the said buildings pay to the builder the amount of such valuation. If the owner shall not require part of the work contained in the specification to be done the builder shall make such deduction from the price mentioned in clause 9 hereof as the architect shall certify in writing to be fair and reasonable.

8. The owner shall pay to the builder in respect of the work specified in the specification hereto annexed the sum of £—— by the instalments hereinafter mentioned namely £—— so soon as the architect shall certify in writing that the said dwelling-house and offices have been duly carried up to the first floor joists the further sum of £—— so soon as he shall have certified that the same buildings are roofed in and covered and £—— [*or* the residue thereof] so soon as he shall have certified that the same buildings have been finished in all respects according to the said plans drawings and specifications. [The residue of the said sum of £—— shall be retained by the owner for [one] year after the date of the last mentioned certificate and shall be applied in making good any cracks sinking or settlement or any latent defect in the said buildings which shall become apparent in the course of such year and shall in the opinion of the architect be due to defective work or the use of improper material by the builder and subject thereto the said residue shall be paid to the builder at the expiration of such year.]

9–11. [*Clauses providing for the builder's bankruptcy, delay, etc. and agreement not to hinder other builders employed, as in Form* 38, *clauses* 6, 7, and 8, p. 63, *supra*.]

12. The builder shall employ an experienced foreman at all times on the premises during building operations and shall dismiss and not again employ upon the premises any foreman or workman whom the architect considers incompetent upon receiving a written notice from the architect requesting so him to do.

(*e*) As to the effect of this clause as regards reputed ownership, see *Re Keen and Keen, ex p. Collins*, [1902] 1 K. B. 555, and *Hart* v. *Porthgain Harbour Co., Ltd.* [1903] 1 Ch. 690; and Halsbury's Laws of England, title "Bankruptcy," vol. 2, p. 177, and title "Building Contracts," vol. 3, p. 263.

13. The builder shall at all times during the progress of the work keep the buildings in course of erection insured in the full value thereof from loss or damage by fire and shall produce to the owner all policies and receipts for premiums on request. The builder shall also do no damage to any adjoining land or buildings and shall prevent his workman from trespassing [whether in search of game or otherwise] and shall indemnify the owner against all actions claims or demands in respect of the matters mentioned in this agreement, or in consequence of any accident or injury sustained by any workman or other person whether in the employment of the builder or not, and the owner shall be entitled to deduct from any sums payable to the builder hereunder any sums which he may have paid or be liable to pay by way of damages in respect of any such action claim or demand.

14. The said plans drawings and specifications shall remain the property of the owner, but during the progress of the work shall be in the possession of the architect.

15. [*Arbitration clause as in Form* 38, *clause* 10, p. 64, *supra*, *or* The certificate in writing of the architect as to said buildings or work in or any way relating to anything to be done by either party under this agreement shall be final and conclusive, unless varied by a subsequent certificate in writing.] (*f*)

IN WITNESS, &c.

[*Signatures of both parties.*]

40.

AGREEMENT for Building Villas, the Builder being allowed to Occupy One Villa Rent Free (*g*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 38, p. 62, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The builder will erect and build at his own cost on a plot of land situate in —— Lane —— the property of the owner [two] villas [*or* cottages] with suitable domestic offices in a good and workmanlike manner with materials of good [*or* the best] quality in accordance in all respects with the plans and specifications furnished by the builder and signed by the parties to this agreement and hereunto annexed, and will complete the same fit for immediate occupation on or before the —— day of —— next unless prevented by strikes, accidents, weather or other unavoidable cause.

2. The builder admits that the said specifications and plans are sufficient and accurate for the purpose of the erection of the intended buildings, and if any other work not therein described is necessary for rendering the said buildings complete and fit for occupation the builder will carry out the same at his own cost and shall not be entitled to claim

(*f*) As to the conclusiveness of the architect's certificate, see the English and Empire Digest, vol. 7, p. 356. See also *Wisbech R.D.C.* v. *Ward* (1927), 43 T. L. R. 739

(*g*) Stamp 6*d*.

any remuneration therefor in addition to that mentioned in clause 3 hereof.

3. The owner will pay the builder £—— on the day when the said buildings shall be complete and fit for immediate occupation. By way of further remuneration the owner will permit the builder to occupy such one of the said villas [*or* cottages] as the builder shall at the date of completion select rent free from such date of completion until the —— day of —— the builder paying all rates and taxes and other outgoings and keeping the same in good and tenantable repair.

4. The builder shall not be entitled to assign or underlet such villa [*or* cottage] as aforesaid.

5. If the builder shall be guilty of unreasonable delay in completing the said buildings in accordance with the said plans and specifications the owner may forthwith by notice in writing require the builder to proceed with the same, and if the work is not proceeded with within —— days after such notice may employ any other builder with sufficient workmen to complete the same, and authorise such builder to use the builder's plant and material on the premises, and may deduct from the said sum of £—— all moneys paid by the owner in obtaining such completion.

6. If the owner shall make default in payment of the said sum of £—— or any part thereof, he will, on the request of the builder, execute and deliver to him an effectual mortgage of all his interest in the whole of the said premises for securing the payment thereof, or of so much thereof as shall then be due, with interest thereon after the rate of £—— per cent. per annum from the time of such default, such mortgage to contain all such covenants, conditions, powers, clauses and agreements as are usually inserted in mortgages of a like nature, and to be prepared by the solicitor of the builder and approved by the solicitor of the owner and perfected at the owner's expense in all respects. In case of dispute the said mortgage shall be settled by counsel on behalf of both the said parties.

7. [*Arbitration clause as in Form* 38, *clause*, 10, p. 64, *supra*.]

IN WITNESS, &c.

[*Signatures of both parties.*]

41.

AGREEMENT by several Tradesmen for Building a School-house jointly (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*bricklayer*] of &c. bricklayer, [*carpenter*] of &c. carpenter, [*mason*] of &c. stonemason [*plumber*] of &c. plumber and glazier (who are hereinafter collectively termed the Contractors) of the one part and [*trustees*] of &c. the Trustees of —— Charity, at —— in the County of —— (who are hereinafter termed the Proprietors), of the other part.

(*h*) Stamp 6*d*.

1. The contractors in consideration of £—— to be divided between them in the following proportions, namely to the said [*bricklayer*] as excavator, bricklayer, slater, plasterer, and pavior £——, to the said [*carpenter*] as carpenter, joiner, smith, and ironmonger £——, to the said [*mason*] as stonemason £——, to the said [*plumber*] as plumber, glazier and painter £——, such several sums to be paid to them respectively by the proprietors or other the trustees for the time being of the said charity at the several times and in the proportions hereinafter mentioned hereby severally for themselves and for their several executors, and administrators, but not the one for the other or others of them or the representatives of the other of others of them, and so far only as relates to their own respective acts, deeds, neglects and defaults, and as to their own branches of the works shown in the specifications, plans, and drawings hereinafter mentioned, but not further or otherwise, agree with the proprietors and their successors in title, that they, the contractors respectively, will, at their own expense, in all things so far as relates to their respective branches of the said works execute and complete or cause to be executed and completed in a good, sound, substantial and workmanlike manner the several works, matters, and things particularly enumerated and shown in and by the several plans, drawings and specifications produced to, and severally considered, and signed by the contractors, and thereby required to be done for erecting a school-house and buildings upon a plot of land on which a —— school lately stood at a place called School-ground, situate at &c. subject in all respects to the conditions set forth in the Schedule hereto and will respectively find and provide all such materials, tools, articles and things as may be necessary for executing and completing the said buildings and works and will cover in the said buildings on or before the —— day of —— next, and completely finish all the said works on or before the —— day of —— next, unless prevented by strikes accidents weather or other unavoidable cause in which case the time shall be extended by the architect hereinafter mentioned.

2. The proprietors hereby agree with the contractors, that the proprietors, or their successors in title, will pay to each of the contractors [85] per cent. on the value of the work done and material delivered on the ground and used to the approval of the architect by such contractor from time to time, as the said works proceed, upon the certificate of [*architect*] of &c. or other the architect for the time being employed by the proprietors (every such architect being in this agreement and the conditions hereunder written included in the description " the architect ") that the contractors respectively are entitled to the same and will pay to each of the contractors the residue of his respective consideration moneys, so payable respectively as aforesaid, at the expiration of —— calendar months next after the architect shall have certified, in writing, that all the said works have been duly performed by or on the parts of all the contractors respectively.

3. If default shall be made by the contractors, or any of them, in the work so to be done by them respectively as aforesaid, so that the said works shall not be completely finished, by the day hereinbefore appointed for the same or such day as the architect shall have appointed by way

of extension as hereinbefore mentioned then each of the contractors making such default, or his executors or administrators shall pay unto the proprietors or their successors in title, the sum of £—— per week, until the said building shall have been covered in, or the said works completed as aforesaid such sum to be paid by way of liquidated damages and not as a penalty.

4. Each of the contractors shall procure a responsible person to be approved by the proprietors to enter into a bond with the proprietors to a sum of £—— at least for the due performance of this contract by such contractor.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

The Conditions to which the foregoing Contract refers.

1. The whole of the works shall be done in the best and most workmanlike manner according to the full intent and meaning of the said plans, drawings and specifications, signed by the contractors and the proprietors at the time of the execution hereof which the contractors hereby admit to be sufficient for their respective purposes including all such works as may necessarily or reasonably be inferred therefrom, although the same may not be expressly mentioned drawn, or specified therein respectively. The dimensions shown by figures on the said plans and drawings shall be acted on in preference to admeasurements taken from scale and detailed plans and drawings at large shall be considered more binding than those drawn on the smaller scale.

2. The contractors shall keep a competent foreman on the works, who shall receive instructions from the architect, and see them carried into effect.

3. The architect shall have full power at all times when he shall deem it necessary, to cause any additional number of men to be employed in the said works, who shall be paid by the contractors respectively according to the respective branches in which they are so employed and to discharge from the premises any man for incompetency or misconduct, any man so discharged shall not be employed again on the works without special leave from the architect.

4. Each contractor shall cart away from the premises, from time to time, all unused materials, rubbish and dirt occasioned by him on the works.

5. No day account shall be admitted, and no extras shall be allowed, unless the same shall have been expressly ordered, in writing, by the architect.

6. No contractor shall assign or sublet any of his work or interest under this agreement, without the previous consent in writing of the architect.

7. The contractors shall insure the buildings from fire, with some respectable and approved Insurance Company, [in London] to the full amount of the contract-money such insurance to continue for three

months next after the works shall be certified by the architect to have been completed.

8. The contractors shall be held responsible for all damage which may occur during the progress of the said works, whether the same shall arise from fire, ineffectual shoring or scaffolding, or otherwise and all such damage, if any, shall be effectually made good by and at their expense in all respects.

9. The contractors shall severally indemnify the proprietors from all claims in respect of any accident or injury to any workman employed by them respectively whether such accident or injury is sustained in connection with their own branch of the works or otherwise.

10. The whole of the works shall be done to the entire satisfaction of the architect, who shall have full power to reject and forthwith cause to be removed from the premises, at the cost of the contractor bringing the same, any materials which he may consider improper or unfit for their intended purposes, or not according to the specifications and also to cause any work to be altered at the costs of the contractors respectively which he may consider improperly performed and no claim for remuneration shall in either case be made by the contractor, whose materials shall have been thus rejected, or whose work shall have been thus altered in respect thereof.

11. The architect shall have full power to make any alterations in, or additions to, or deviations from the original plans, drawings, and specifications, and such alterations and additions shall in no way vitiate the original contract. The differences in the quantity of work executed in consequence of such alterations, additions, or deviations, shall be ascertained by admeasurement and valued by the said architect, whose valuation and decision shall be final. The amount of such valuation shall be added to, or deducted from (as the case may be), the amount payable to the party or parties affected thereby.

12. If any of the contractors refuse or neglect to perform his part of the said buildings or works as aforesaid, the proprietors shall be at full liberty to employ and pay any other builder or other persons to complete the same and the amount so expended therein, and certified by the architect, shall be borne and paid by such defaulting contractor in addition to the sums mentioned in clause 3 of the foregoing contract.

13. All disputes arising out of the performance or non-performance of the contract, or in relation thereto, shall be referred to the architect, whose decision shall be final and binding upon each of the contractors, and if any contractor shall refuse or neglect beyond the space of —— days to comply with any directions in writing given by the architect touching any of the matters or things hereinbefore mentioned or referred to, then, and in every such case, the architect shall be at full liberty to suspend the works and proceedings of such contractor and to take the whole thereof, which shall have been contracted for by him, and not then complete, out of his hands, and cause the same to be finished by any other person or persons ; and the expenses occasioned thereby shall be deducted

from the balance then due, or which shall become due to such defaulting contractor under the foregoing agreement.

14. Each contractor shall be bound to give all proper notices to and obtain all proper sanction from the local authority in respect of the work he contracts to perform and shall pay all necessary fees for obtaining such sanction.

[*Signatures of all parties.*]

42.

AGREEMENT for Repairing a School-house and Almshouse (*i*).

THIS AGREEMENT is made &c. BETWEEN [*trustees*] of &c. as trustees of the will of [*testator*] late of &c. deceased (hereinafter called the trustees, of the one part, and [*builder*] of &c. (hereinafter called the builder) of the other part.

WHEREAS by an order of the Chancery Division of the High Court of Justice made on the —— day of —— in an action whereof the short title and reference to the record is Re W. deceased A. *v.* B. 19— W. No. ——, an inquiry was directed whether any and, if any, what repairs were necessary to be done or made to the school-house, almshouses, and premises belonging to the —— Charity, at —— in the county of ——, and that the trustees should be at liberty to make such repairs as the Master should find to be necessary, and to pay the expenses thereof, out of any moneys belonging to the said charity in their hands

AND WHEREAS the master by his certificate, dated the —— day of ——, certified that the several repairs in his said certificate mentioned were necessary to be done or made to the said school-house, almshouses, and premises, which repairs are detailed in the specification thereof, and shown by several plans and drawings hereunto annexed and signed by the builder upon the execution hereof

AND WHEREAS by a further order made in the said action on the —— day of ——, it was ordered that it should be referred to the Master to select a fit and proper person to make the said repairs and to approve of and settle a proper contract to be entered into by the person he might so select to fully and properly carry out the same

AND WHEREAS the master has selected the builder as a fit and proper person to make such repairs, and has approved of this agreement in token whereof he has signed the same in the margin hereof, as a proper contract to be entered into.

NOW THESE PRESENTS WITNESS as follows:—

1. In consideration of £—— to be paid to the builder in manner hereinafter mentioned, the builder hereby agrees with the trustees and each and every of them that he will do and perform the several repairs so directed to be made and done to the said school-house, almshouses

(*i*) Stamp 6*d*.

and premises in a good, lasting, and workmanlike manner, according to the plans or drawings and specification hereinbefore mentioned which he hereby admits to be sufficient for the purpose of the said repairs and according to the conditions contained in the Schedule hereto and subject to the approval of [*surveyor*] of &c. who has been appointed by the judge as the surveyor to superintend and direct the said repairs or of any other surveyor to be hereafter appointed in his place.

2. The trustees do and each of them doth hereby agree with the builder that they or the survivor of them their or his assigns being trustees for the time being of the said charity will pay or cause to be paid [out of the funds of the said charity] to the builder the sum of £——, in manner following, namely, the sum of £—— on the —— day of —— next, and the like sum of £—— on the first day of every ensuing third calendar month till the same shall be fully paid, but the trustees shall not be bound to make any of such payments, unless and until work to the full value of two-thirds of the said total sum of £—— shall have been previously done and certified by the said surveyor and in any case shall not be required to make any payment in respect of work not actually done and certified by the surveyor at the date when the builder requires such payment. In case the work shall be completed earlier than the day specified in clause 3 of the Schedule hereto the balance of the said sum of £—— shall be paid to the builder at the expiration of —— calendar months from the time such work shall be completed.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

1. The builder shall at his own costs and charges find and provide all and every kind of materials, workmanship, tools, tackle, freight, carriage, barrows, planks, centreing, scaffolding, machinery, sheds for the workmen, models, moulds, templets, patterns, and deposit of materials, and every other article requisite or necessary for the due and complete performance of the said works, and of all extra works, if any, connected therewith, which he may contract to perform and complete.

2. [*Condition as to damage as in Form* 41, *Schedule, clause* 8, *p.* 70, *substituting* the builder *for* the contractors.]

3. The said works shall be commenced immediately after the execution hereof, and be regularly continued with reasonable speed and the whole thereof shall be completely finished by the —— day of ——, unless prevented by accidents, strikes, weather, or other unavoidable cause certified by the surveyor who shall in such event have power to extend the time.

4. If anything necessary for the proper completion of the said works according to the said plans or drawings or the specification be omitted therefrom, the surveyor shall be at liberty to supply the same and the builder shall carry out all directions of the surveyor for supplying such omission in like manner as if the same formed part of the original specification, and no charge for extras shall be allowed in consequence of any such omission.

5. The several supplemental plans and drawings, with their written dimensions and instructions, as well as the originals, shall belong to the trustees, and shall be equally binding with the specification and in case of any discrepancies between such drawings and the specification, or of any doubt or disagreement whatsoever relative thereto, the same shall be submitted to the surveyor, as next hereinafter mentioned, and the decision shall be final and conclusive.

6. The opinion of the surveyor, both as to the materials used or intended to be used, and to the workmanship, shall be binding and conclusive on the builder, and all doubts and differences, if any, which shall arise in the execution of the said works, or relative thereto, shall be submitted to the surveyor, who shall act as sole referee, and shall put a fair and liberal construction on all matters submitted to him and such matters shall, in every case, be treated as if included in the said plans, drawings and specification, whether the same shall be incorporated therein or referred to thereby or not.

7. If, upon his examination, the surveyor shall find that either the materials or workmanship, or any portion of the same respectively, are defective, deficient, or of any improper quality, or not according to the description mentioned in the said specification, or as stated or shown upon the said plans or drawings, then, and in every such case, it shall be lawful for him to order and require all such materials to be removed, and to be replaced forthwith by materials and workmanship of the best of their respective kinds, and in all respects according to the said specification and the entire expense arising from or out of or occasioned by such corrections shall be borne by the builder who shall not acquire any right to compensation for the same, and who shall, in every case, leave the whole of the works sound and complete.

[*Signatures of all parties.*]

43.

AGREEMENT for Altering and Restoring Buildings (*k*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*contractors*] of &c. carrying on business under the firm of —— & Co. (hereinafter called the contractors) of the other part.

WHEREAS the owner has caused a plan and specification to be prepared for taking down, restoring and completing the outbuildings on a farm known as The —— Farm, situate at &c. according to the original plan thereof, the said plan being marked "A," and the restoration referred to being only of such parts as are coloured —— thereon

AND WHEREAS the tender of the contractors for carrying out and completing the said works, amounting to the sum of £—— has been accepted by the owner.

(*k*) Stamp 6*d*.

NOW THESE PRESENTS WITNESS as follows :—

1. The contractors will in every respect perform and completely finish the said works according to the said plan and specification, and the several stipulations and requirements in such specification contained, to the entire satisfaction of the owner or his surveyor on or before the —— day of —— next.

2. The contractors will, at all times during the continuance of this contract, observe and follow any directions with respect to the performance of the said works conformable to the said plan and specification, which shall, from time to time, be given, in writing to them or their foreman by the owner or his surveyor, but all work performed under such directions, if deviations from the said plan and specification, shall be deemed extra work and be paid for accordingly.

3. The contractors or one of them will personally superintend the erection of the said works, and will not employ any sub-contractor for any part thereof without the previous consent in writing of the owner, or his surveyor.

4. The contractors will bear and pay all costs, damages, and expenses whatsoever of and incident to the complete fulfilment of this contract on their part.

5. The contractors will commence the said works on or before the —— day of —— next, and carry them on with all reasonable dispatch as weather or other circumstances beyond the control of the contractors will permit, to the satisfaction of the owner, or his surveyor.

6. The contractors will bear all losses of materials or risks thereto caused by theft, fire and tempest, during the progress of the said works.

7. The contractors will insure the buildings so to be erected as aforesaid to the amount of £—— during the course of erection the owner insuring the other part thereof at his own expense.

8. The contractors shall employ competent workmen and a foreman and use materials which shall be the best of their kind.

9. [The contractors shall during the progress of the works pay to their workmen wages at the rates for the time being approved by the officials of the trade unions to which such workmen may respectively belong, and will not employ any workman who is not a member of the trade union affecting his trade] (*l*).

10. The owner on the said works being duly and satisfactorily performed, as aforesaid, will pay the said sum of £—— by such instalments and at such times as his said surveyor shall from time to time certify, and so that the whole thereof shall be paid on or before the —— day of —— next. PROVIDED that no liability of the owner to make any payment whatsoever shall arise unless and until his surveyor shall have certified in writing that such payment may be made, but such certificate shall not imply a definite and final acceptance by the owner or the surveyor of the work in respect of which such certificate is given.

(*l*) A provision of this nature is sometimes inserted to minimise the risk of delay through strikes.

11. If the contractors shall become bankrupt or enter into any composition with their creditors, or shall neglect, refuse or from any cause whatever, be unable at any time to proceed with the said works, except for the causes mentioned in clause 5 hereof, the owner shall have full power to carry on and finish the work, and the contractors shall bear and pay all the expenses of and attending the same, in all respects, and if the works shall not be completed by the said —— day of —— next, the contractors shall forfeit and pay to the owner £—— for every day, until such works shall be fully completed to the satisfaction of the owner or his surveyor, unless prevented by either of the causes aforesaid in which case such time shall be reasonably extended by the owner or his surveyor, by endorsement hereon or otherwise in writing.

12. Mr. [*name of surveyor*] of &c. shall be the surveyor of the owner within the meaning of this agreement, but the owner may appoint any other surveyor in his place, in which case such surveyor shall have all the powers given to the owner's surveyor hereunder.

13. If any question or dispute arise touching the performance or non-performance of this contract or the nature of the work to be done hereunder, the same shall be left to the decision of two competent surveyors one to be chosen by each party, or in case they differ by a third surveyor to be chosen by them as umpire before they enter upon the reference and the decision of such surveyors or umpire shall be given within —— days after every such submission, and be final and conclusive on both parties hereto and in case either party shall refuse or neglect for one week to appoint a surveyor after being requested in writing so to do by the other party hereto or in case either surveyor shall refuse or neglect to act within —— days after his appointment, the other surveyor may proceed alone, and his decision shall then likewise be final and conclusive to all intents and purposes whatsoever. The costs of such reference shall be borne as such surveyors or their umpire shall direct by their or his award.

IN WITNESS, &c.

[*Signatures of all parties.*]

44.

AGREEMENT for Execution of Part of Building Work by Sub-Contractor (*m*).

AN AGREEMENT made the —— day of —— BETWEEN [*contractor*] of &c. (hereinafter called the contractor) of the one part and [*sub-contractor*] of &c. (hereinafter called the sub-contractor) of the other part.

WHEREAS by an agreement dated the —— day of —— the contractor has agreed with [*employer*] of &c. (hereinafter called the employer) to build and erect certain messuages on the land of the employer according to certain plans, drawings and specifications annexed to the said agreement

(*m*) Stamp 6*d*. As to sub-contracts generally, see the English and Empire Digest, vol. 7, p. 421.

AND WHEREAS the terms of the said agreement and particulars of the said specifications, drawings and plans, so far as the same have reference to the work hereinafter agreed to be done have been disclosed, and copies thereof furnished to the sub-contractor

[AND WHEREAS the employer has consented in writing to the employment of a sub-contractor to execute the work specified in the Schedule hereto.]

NOW IT IS HEREBY AGREED as follows :—

1. The sub-contractor will on or before the —— day of —— execute the work specified in the Schedule hereto, and all extra work of a similar kind which may be required from time to time by the employer's architect in a sound and workmanlike manner and with the best materials and to the satisfaction of the contractor and of the employer's architect in accordance with the terms of the recited agreement. The sub-contractor shall supply at his own expense all labour materials and plant necessary for carrying out the said work.

2. The sub-contractor shall proceed with due dispatch and diligence, and in particular will in no way delay or impede the contractor in the due and punctual execution by him of the other work comprised in the recited agreement. The sub-contractor shall, however, be entitled to the benefit of any extension of time allowed by the employer's architect pursuant to the recited agreement if and so far as such extension relates to work to be executed under this contract.

3. The contractor will pay the sub-contractor £—— for the completion of the work specified in the Schedule hereto in manner following namely £—— per cent. of the first instalment of the consideration money received by the contractor under the recited agreement and £—— per cent. of each of the second and final instalments to be so received [*or state other terms arranged*]. In the case of extra work the employer's architect shall be asked to certify what proportion of such extra work he considers ought to be paid for by the contractor to the sub-contractor and at what price, and the contractor will pay the sub-contractor according to such certificate If the employer's architect shall decline so to certify the sum due to the sub-contractor it shall be certified in his place by [*architect*] of &c. or him failing by [*architect*] of &c.

4. The sub-contractor will indemnify the contractor against all loss, damage, and expenses incurred by the contractor by reason of any default, delay, bad work, or breach of this agreement by the sub-contractor, or in consequence of any accident or injury sustained by any workman or other person whether in the employment of the sub-contractor or not.

5. If in the opinion of the employer's architect the sub-contractor does not proceed with due diligence, or if the sub-contractor shall become bankrupt or compound with his creditors, the contractor may either himself complete the work specified in the Schedule hereto or employ any other person or persons to complete the same, and for that purpose may use or authorise the use of the materials and plant of the sub-contractor actually on the premises. The cost of so completing the work shall be

retained by the contractor out of any moneys which he would be otherwise liable to pay to the sub-contractor, and if such cost shall exceed the amount of such moneys the sub-contractor shall pay the difference to the contractor as liquidated damages.

6. All disputes between the parties hereto relating to this agreement or anything to be done hereunder shall be referred to the employer's surveyor whose decision shall be binding and conclusive, and who shall or may award by whom the costs of such reference shall be borne.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of work.*]

[*Signatures of both parties.*]

45.

AGREEMENT for Abandonment of a Building Contract (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*builder*] of &c. (hereinafter called the builder) of the one part and [*employer*] of &c. (hereinafter called the employer) of the other part.

WHEREAS this agreement is supplemental to an agreement dated the —— day of —— and made between the employer of the one part and the builder of the other part whereby it was agreed among other things that the builder should build [10] dwelling-houses or messuages on the land of the employer coloured [blue] on the plan thereto annexed

AND WHEREAS the builder has partially erected [5] of the said dwelling-houses but by reason of financial difficulties is unable to complete the same in accordance with the said agreement or to erect the remainder of the said dwelling-houses

AND WHEREAS divers payments amounting to £—— in all have already been made to the builder by the employer pursuant to the said agreement.

NOW IT IS HEREBY AGREED as follows:—

1. The builder shall forthwith give up to the employer possession of the said land coloured [blue] on the said plan together with all buildings erected or in course of erection thereto and all materials and plant now on the said land with the exception of tools.

2. The employer shall allow the builder to retain for his own use all sums of money so paid to him as aforesaid.

3. The builder and the employer hereby respectively release and discharge the other of them from all liability in respect of the said agreement and from all claims and demands in respect of any breach of any

(*n*) Stamp 6*d*.

stipulation therein contained to the intent that as from the date hereof the said agreement shall wholly cease and determine

AS WITNESS, &c.

[*Signatures of both parties.*]

BUSINESS.

46.

AGREEMENT for Sale of a Solicitor's Practice (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. solicitor (hereinafter called the vendor) of the one part and [*purchaser*] of &c. solicitor (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will buy as on the —— day of —— the goodwill of the practice or profession of a solicitor as heretofore carried on by the vendor at —— in the county of —— under the style of —— for the price of £——

2. The vendor will sell and the purchaser will buy as on the —— day of —— all furniture safes boxes and law books used by the vendor in connection with his said practice the price thereof to be £—— [*or* to be determined by the valuation of —— of &c or him failing by arbitration as hereinafter mentioned].

3. The said sum[s] of £—— and £—— [*or* the amount of the said valuation] shall be paid to the vendor by the purchaser on the —— day of —— next and upon payment of the said sum[s] [and the amount of the said valuation] the vendor will if required and at the expense of the purchaser execute a proper assignment to him of the goodwill of the said practice and give him possession of the articles specified in Clause 2 hereof.

[*Or* 3A. The said sum of £—— shall be paid as follows:—£—— on the —— day of —— next, £—— on the —— day of —— next and the residue thereof on the —— day of —— next. Each instalment shall bear interest at [5] per cent. per annum from the —— day of —— next until payment but the purchaser shall be entitled to pay any of the said instalments on any day prior to the date of payment hereby fixed. The said sum of £—— [*or* the amount of the said valuation] shall be paid on the —— day of —— next.

3B. Upon payment of the first instalment of the said sum of £—— and upon payment of the said sum of £—— [*or* the amount of the said valuation] the vendor will deliver to the purchaser the articles specified in clause 2 hereof and will execute an assignment to him of the goodwill of the said practice upon the purchaser executing a bond to secure the payment of the remaining instalments.]

(*o*) Stamp. *Ad valorem* conveyance duty on the price for the goodwill.

4. Upon such payment as aforesaid the vendor will deliver into the custody or possession of the purchaser all deeds, documents, vouchers, books of account and other books, papers, and writings (including drafts, manuscripts, forms, and precedents of deeds and instruments) prepared and acquired by the vendor in the course of his practice, and then in his possession or control, whether the same shall happen to relate to matters of business pending or not, which the vendor may properly deliver up, either absolutely or conditionally, to the purchaser without prejudice to any lien, right or claim the vendor, or any or either of his clients, may have on or to the said deeds, documents, vouchers, papers and writings, or any or either of them respectively, for costs or otherwise and subject also to the right of free access thereto as hereinafter mentioned.

5. There are reserved from this sale all sums payable in respect of work done in connection with the said practice up to the —— day of —— whether completed or not completed on such date. In respect of uncompleted work the profits in respect thereof shall be apportioned between the vendor and the purchaser as on the —— day of —— and in respect of all work mentioned in this clause the purchaser shall without remuneration use his best endeavours to enable the vendor to recover payment or his share of payment for the same and afford to the vendor the free use of the services of the purchaser's clerks for such purpose.

6. The vendor will, from time to time [during the interval between the said —— day of ——, and —— day of —— next], introduce and recommend the purchaser to his clients as his successor in the said practice and use his best endeavours to enable the purchaser to retain the confidence and good opinion of such clients so that the purchaser may derive the full benefit and advantage of the said practice.

7. The vendor will, from the said —— day of —— until the —— day of —— next, permit the said practice to be carried on in his name jointly with that of the purchaser so that the vendor shall continue and remain ostensibly concerned and engaged therein (*p*).

8. The vendor will, from time to time, as often as occasion shall require, attend at the office of the purchaser for the purpose of continuing such ostensible connexion with the said practice and of assisting in the management thereof but without participating in the losses, expenses or liabilities, or profits thereof, or receiving any other compensation for such assistance and co-operation in the conduct of the said practice as aforesaid [*If it be stipulated that the vendor should be paid for continuing the business so as to give an introduction, add*—other than and except the weekly sum of £—— which it has been agreed the purchaser shall pay to the vendor towards the additional expenses which will be occasioned to him by his prolonged residence at —— aforesaid, for the purpose of giving such introduction and other the purposes aforesaid].

9. The vendor will employ the purchaser in any of his own private or personal (*q*) business-matters, which he may have to be transacted

(*p*) See *Bunn* v. *Guy* (1803), 4 East 190; *Thornbury* v. *Bovill* (1842), 1 Y. & C. (Ch.) 554.

(*q*) It is usual to except private personal matters, leaving it to the discretion of

or performed at —— aforesaid, and will not employ any other local solicitor within —— miles thereof, but the purchaser shall not be entitled to make any charge or claim upon the vendor in respect of such business beyond the sums actually paid, or disbursed by him in the course of such matters respectively.

10. The vendor shall not at any time hereafter, without the consent in writing of the purchaser first obtained, either alone or jointly with any other person or persons whomsoever, directly or indirectly, set up resume or carry on the practice of a solicitor, or any branch thereof respectively, at —— aforesaid, or within the distance (as the crow flies) of —— miles thereof, or act as agent, partner, clerk or assistant to or with any other solicitor residing within such ambit (*r*).

11. The vendor shall not directly or indirectly promote or encourage, or assist in promoting or encouraging, any opposition whatever to the said practice hereafter to be carried on by the purchaser, or publish, divulge, or disclose any of the deeds, documents, papers, matters, affairs or things in or relating to the said practice which ought not to be divulged, disclosed or made public, or do any other act, matter or thing whatsoever to the injury or prejudice of the said practice or to the injury, prejudice or annoyance of the purchaser.

12. The vendor, his executors and administrators [and all persons duly authorised, in writing, by him] shall, at all reasonable times [and after giving —— hours' notice] have access to the books of accounts, deeds, documents, and papers of the said practice so long as the same shall remain in the custody, power or control of the purchaser, and shall also be entitled to make abstracts or copies or extracts of or from any of them.

13. The purchaser, his executors or administrators, will, at all times hereafter, keep indemnified the vendor, his executors and administrators, from and against all losses, costs, damages and expenses whatsoever by reason or in consequence of the said practice being carried on in the name of the vendor jointly with the name of the purchaser from the —— day of —— till the —— day of —— next, or by reason or consequence of any matter or thing in anywise relating thereto or to the future conduct thereof.

14. If the purchaser shall not pay the said purchase-money at the time and in manner aforesaid, the vendor shall have full power (but not be obliged) to rescind this contract on giving the purchaser —— clear days' notice of his abandonment thereof and the vendor shall be at full liberty to resume possession of, and, when and as he shall think fit, to resell the said practice, goodwill, furniture, books, effects and things hereby sold, without previously tendering any assignment thereof to the purchaser and any increase in the price on such resale shall belong to the vendor.

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the retiring party either to transact them himself or to employ his successor. In the case of the disposal of a practice in London it may be necessary to introduce provisions as to *agency* business. For an agreement containing clauses of this nature, see *Bunn* v. *Guy*, *supra*.

(*r*) For the construction of an agreement of this nature, see *Dewes* v. *Fitch*, [1920] 2 Ch. 159; [1921] 2 A. C. 158; and note (*e*), *infra*, p. 90.

15. The vendor shall, on the said —— day of —— next if the purchase of the said practice shall be completed in pursuance of this agreement, grant to the purchaser and the purchaser shall accept at his own expense a lease of the offices and premises belonging to the vendor situate at —— as the same are now in his occupation, for the term of —— years to be computed from the —— day of —— next at the yearly rent of £—— payable quarterly on the usual quarter days.

16. Such lease shall contain a covenant on the part of the purchaser to keep the said premises in good repair and condition, and at the end of the said term to deliver up the same in the same condition to the vendor, [reasonable use and deterioration thereof and] all losses occasioned by fire storm, tumult, damp, or dry-rot excepted, and all such other covenants, stipulations and agreements as are usually (*s*) inserted in leases of a like nature and as shall, in case of disagreement, be settled and approved by counsel, chosen by and on behalf of both the parties hereto. The said lease and a counterpart thereof shall be prepared by [the solicitor for] the vendor and approved by [the solicitor for] the purchaser.

17. At the expiration or sooner termination of the term of the said intended lease, the vendor, his executors, administrators, or assigns, shall repurchase and pay for all such fixtures and fittings, whether substituted or additional, as shall then be in the said offices at a similar valuation then to be made thereof.

[*If it be agreed that a son or articled pupil of the vendor is to be assigned to the purchaser, without premium, add :—*

18. The purchaser shall accept an assignment of the articles of clerkship of —— the son [*or* pupil] of the said vendor, who shall, at his own expense, prepare, register and perfect such assignment to the said purchaser for all the residue now unexpired of the term [of —— years] of the said clerkship [*or* service] without requiring any premium or consideration for the same].

[*Or, if a premium is to be paid, omit the words subsequent to* service, *and substitute the following :—*

The vendor will, upon the execution of the last-mentioned assignment, pay to the purchaser the sum of £—— as a rateable share or proportion of the premium received by the vendor on the execution of and as a consideration for the said articles and the purchaser shall accept that sum in full satisfaction of all claims, if any, of the parties to the said articles upon or against the said vendor under or in respect thereof, and shall, if required, effectually indemnify the said vendor against all such claims.]

[*If it be agreed that the vendor's son or pupil is to be taken into partnership with the purchaser :—*

19. The purchaser shall receive the said —— into partnership on equal [*or other*] terms with him in the said practice when and so soon as he

(*s*) As to what are usual covenants see *Re Anderton and Milner's Contract* (1890), 45 Ch. D. 476 ; *Allen* v. *Smith*, [1924] 2 Ch. 308.

shall have become duly qualified to practise as a solicitor, and on payment of the sum of £——.]

20. In case any question or dispute shall arise between the parties hereto touching or concerning this contract, or the said intended lease and counterpart, or any other matter or thing whatsoever relating thereto respectively, the same shall be referred to two arbitrators, one to be chosen by each party hereto or their umpire, such arbitration to conform in all respects to the provisions of the Arbitration Act, 1889.

IN WITNESS, &c.

[*Signatures of both parties.*]

47.

AGREEMENT for Sale of a Solicitor's Practice where Annuity is paid to Widow of Deceased Partner (*t*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. of the first part [*one purchaser*] of &c. of the second part and [*other purchaser*] of &c. of the third part.

WHEREAS the said [*vendor*] and [*deceased partner*] deceased lately carried on business as solicitors and attorneys under certain articles of partnership dated the —— day of —— whereby among other things it was provided that in the event of either partner dying in the lifetime of the other of them the amount of capital of the partner so dying in the said business and his share of the book debts and assets of the partnership should be ascertained and paid to his legal personal representative together with interest thereon at the rate of [6] per cent. until payment, but that no consideration should be paid by the surviving partner for goodwill except an annuity of £—— to the widow of the partner so dying during her life [*or* for the period of —— years], and that the said goodwill and assets of the said business should become the sole property of such surviving partner

AND WHEREAS since the death on the —— day of —— last of the said [*deceased partner*] the said business has been and is now carried on by the said [*vendor*] alone on certain premises known as —— and held by the said [*vendor*] under a lease dated the —— day of —— and made between [*parties*] at a yearly rent of £——

AND WHEREAS the said [*purchasers*] have proposed to purchase the said business upon the terms hereinafter mentioned.

NOW IT IS HEREBY AGREED as follows :—

1. The said [*vendor*] will sell and the said [*purchasers*] will purchase the business carried on by the said [*vendor*] as aforesaid and the goodwill thereof.

(*t*) Stamp. *Ad valorem* conveyance duty on the cash price and on the annuity ascertained under s. 56 of the Stamp Act, 1891.

2. The consideration for the said sale shall be (1) the sum of £—— to be paid to the said [*vendor*] by the said [*purchasers*] (2) an annuity of £—— to be secured to the widow of the said [*deceased partner*] as hereinafter mentioned and (3) the other agreements and stipulations on the part of the said [*purchasers*] hereinafter contained.

3. The sale shall take effect as on the —— day of —— next up to which day the said [*vendor*] shall carry on the said business to the utmost of his ability, and shall be entitled to receive all the profits and be liable to pay all rents, rates, wages, and other outgoings in respect of the said business and the said leasehold premises. For the purpose of this clause all necessary apportionments shall be made.

4. The said [*vendor*] shall with all reasonable speed collect and recover payment of all bills of costs and other debts due to the said [*vendor*] or his late firm, and shall pay all liabilities of the said [*vendor*] or the said firm in respect of the business, and shall pay or secure to the representatives of the said [*deceased partner*] all moneys due to them under the said articles of partnership.

5. The said [*vendor*] shall issue such notices and do all such things as may be necessary for the purpose of introducing the said [*purchasers*] to clients and others dealing with the said [*vendor*] or his late firm as his or the said firm's successors, and shall execute and do all deeds, acts and things which may be necessary or proper for the purpose of vesting the full benefit of the said business and the goodwill thereof in the said [*purchasers*] and indemnifying them against all claims by the legal personal representatives of the said [*deceased partner*] and all liabilities of or in connection with the said business which under this agreement or otherwise the said [*vendor*] is liable to bear.

6. The said purchase price of £—— shall be paid to the said [*vendor*] in manner following:—£—— part thereof shall be paid by the said [*one purchaser*] on the —— day of —— and £—— other part thereof shall be paid by the said [*one purchaser*] on the —— day of ——. The said [*other purchaser*] shall pay £—— residue of the said sum by [*six*] equal half-yearly instalments of £—— each on the —— day of —— and the —— day of —— in each year until the whole shall be paid the first such payment to be made on the —— day of —— next and he shall give to the said [*vendor*] such security for the payment of such instalments as the said [*vendor*] shall reasonably require. All payments hereby agreed to be made and not paid on the appointed dates shall bear interest at [10] per cent. per annum from such respective dates until payment and all payments hereby agreed to be made on fixed dates subsequent to the said —— day of —— shall carry interest at [5] per cent. per annum from the said —— day of —— until the said respective fixed dates.

7. The said [*purchasers*] shall also pay to [*widow of deceased partner*] of &c. the widow of the said [*deceased partner*] out of the profits of the said business an annuity of £—— during her life [*or* during the period of —— years after the said —— day of ——] and they shall execute a proper deed of covenant to the said [*widow*] for payment of such annuity and for carrying on the said business to the best of their ability and for

providing that the said [*purchasers*] and their respective legal personal representatives will on any sale or disposal of the said business or any share therein stipulate with the person or persons acquiring the same that he or they shall enter into a similar deed of covenant with the said [*widow*].

8. The said [vendor] will on the —— day of —— next deliver to the said [*purchasers*] all office furniture, fixtures, safes, boxes, law books and other effects then being on the said premises and used in connection with the said business at a valuation to be made in case of difference under the arbitration clause herein contained the amount of such valuation to be paid by the said [*purchasers*] to the said vendor on the said —— day of —— next or so soon hereafter as such amount shall be ascertained and the said [*vendor*] shall on the same date execute to the said [*purchasers*] an assignment of the said leasehold premises [or if the consent of the lessor thereof cannot be obtained shall execute a declaration of trust thereof for the said [*purchasers*]] they indemnifying the said [*vendor*] against all future liabilities under the said lease.

9. The said [*vendor*] may remove all private ledgers and books belonging to him or the late firm from the said premises at any time hereafter. All other books of account relating to the said business shall remain on the said premises for —— years from the said —— day of —— if the said [*purchasers*] shall so long carry on the said business the said [*purchasers*] undertaking to keep the same whole, uncancelled and undefaced, excepting the event of fire or other inevitable accident. Any party hereto shall be entitled during such period to have free access to and to make full use of the said ledgers and books at such times as he reasonably requires. At the end of the said period the said ledgers and books shall be delivered to the said [*vendor*].

10. The said [*purchasers*] or one of them shall on the said —— day of —— accept an assignment of the articles of [*articled clerks*] who are at present articled to the said [*vendor*] and in the case of each such person the premium payable by him shall be paid or transferred to the said [*purchasers*] [*or* shall be apportioned between the said [*vendor*] and the said [*purchasers*] as on the —— day of ——].

11. On the said —— day of —— the said [*vendor*] will subject to the paramount claims of clients deliver to the said [*purchasers*] all deeds documents and papers in or upon the said premises and belonging to clients of the said business except such as are the private property of the said [*vendor*] [or to which he is entitled as a trustee for other persons].

12. The said [*purchasers*] shall be entitled to use the name of the said [*vendor*] in carrying on the said business either alone or in conjunction with their names for the period of [2] years from the said —— day of —— but no longer.

13. The said [*vendor*] shall not at any time hereafter so long as the said business shall be carried on by the said [*purchasers*] or either of them either alone or in partnership with any person or by any person or persons who may be their successors in the said business practise as a solicitor in his own name or in any other name within —— miles of —— aforesaid.

14. For the period of [2] years from the said —— day of —— the said [*vendor*] shall have full access to the said leasehold premises or any other premises where the said business is for the time being carried on for the purpose of winding up the business of the said [*vendor*] and of the late firm and for ascertaining the true position of the business of the said [*purchasers*] and for such purposes shall be at liberty to inspect the books of the last mentioned business and make copies of and extracts therefrom and the said [*purchasers*] shall from time to time give the said [*vendor*] full and accurate information with respect to their business.

15. If any difference shall arise between the parties hereto touching these presents or the construction and meaning thereof or anything to be done hereunder the same shall be referred to two arbitrators, one to be appointed by the said [*vendor*] and one by the said [*purchasers*] and their umpire and such arbitration shall in all respects be conducted in accordance with the Arbitration Act, 1889.

AS WITNESS, &c.

[*Signatures of all parties.*]

48.

AGREEMENT for Sale of Medical Practice by Executor (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*executor*] of &c. widow (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREAS [*testator*] of &c. who died on the —— day of —— and whose will dated the —— day of —— was proved on the —— day of —— by the vendor the sole executrix therein named practised up to the date of his death as a general medical practitioner in —— and neighbourhood.

NOW IT IS HEREBY AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the practice of a general medical practitioner so carried on as aforesaid by the said [*testator*] [together with the medical books instruments apparatus drugs medicines and other articles specified in the Schedule hereto] upon the terms hereinafter contained.

2. As consideration for the sale of the said practice the purchaser shall on the —— day of —— next pay to the vendor the sum of £—— and shall also on such day execute and deliver to the vendor his bond to secure payment to the vendor of one equal [third] part of the net profits to be derived from the said practice during the [three] years next ensuing after the said —— day of ——. [The articles specified in the Schedule hereto shall be paid for at a price to be fixed by [*valuer*] or him failing by [*valuer*].]

3. Upon payment of the said sum of £—— [and the amount of the said valuation] the vendor will if required by the purchaser execute a proper assignment to him of the goodwill of the said practice. If the said

(*a*) Stamp. *Ad valorem* on the price for the goodwill and 10*s.* for the share of profits.

sum of £—— [and the value of the said articles] shall not be paid on the —— day of —— then unless such non-payment shall be caused by any wilful default on the part of the vendor the purchaser shall pay to the vendor interest on such sum at the rate of £5 per cent. per annum from the —— day of —— until actual payment.

4. The said net profits shall be ascertained after deduction therefrom of all outgoings and expenses in respect of work done [such outgoings and expenses not in any event to exceed £—— in any one year], and shall be certified by Messrs. —— of &c. chartered accountants or if they are unable or unwilling to act by such other accountants as shall be nominated by the vendor and the purchaser shall produce all books and diaries and give all information to the said accountants as they shall require.

5. The accounts of the said practice shall be made up annually on the 25th day of March in each year and the vendor's proportion of the net profits for such year shall be paid to her by the purchaser [2] weeks after that date. All payments to be made under this clause shall carry interest from the due date of payment until actual payment.

6 The purchaser shall during [three] years from the —— day of —— devote his whole time and attention to the said practice and use his best endeavours to develop and extend the same.

7. The vendor will personally introduce the purchaser to all patients of the said [*testator*] with whom she is personally acquainted and generally will use her best endeavours to secure to the purchaser the full benefit of the said practice.

8. The purchaser shall not during [three] years from the said —— day of —— sell or dispose of the said practice or any interest therein without the consent of the vendor.

9. In the event of the death of the purchaser during the said [three] years the purchaser's executors shall either sell the said practice upon the terms that the then purchaser will enter into an agreement with the vendor containing the same terms as this agreement other than terms which at that date shall have been duly carried out or shall pay out of the purchaser's estate to the vendor annually during the residue of the said period of [three] years a sum of £——.

10. If the purchaser shall obtain any professional appointments which the said [*testator*] held at his death the full salaries or emoluments arising from such appointments shall for the purposes of this agreement be deemed to be net profits of the said practice but salaries and emoluments arising from appointments obtained by the purchaser but not held by the said [*testator*] shall belong wholly to the purchaser.

11. Nothing herein contained shall be deemed to constitute a partnership between the vendor and the purchaser.

AS WITNESS, &c.

[THE SCHEDULE ABOVE REFERRED TO]

[*List of articles*]

[*Signatures of both parties.*]

49.

AGREEMENT for Sale of a Boarding School (*b*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*vendor*] of &c. of the one part and [*purchaser*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*vendor*] will sell to the said [*purchaser*] and the said [*purchaser*] will purchase at the sum of £——, ALL THAT the goodwill of the school for [young ladies] known as The —— School, now, and for some years past, carried on and conducted by the said [*vendor*] in the dwelling-house and upon the premises hereinafter mentioned, AND ALSO, at the valuation hereinafter mentioned, all the household and school furniture, fixtures, fittings, books, maps and other articles and effects in the dwelling-house and premises hereinafter described, AND ALSO at the further sum of £——, the unexpired portion (about —— years) of a term of —— years granted to the said [*vendor*] by [*lessor*] of &c. by lease dated the —— day of ——, and determinable at the expiration of the first [seven] and [fourteen] years thereof, of and in ALL THAT dwelling-house known as —— House, with the school-room, domestic offices, outbuildings, lawn, garden, and playground, thereunto belonging, situate at ——.

2. The said [*purchaser*] who has this day paid to the said [*vendor*] a sum of £—— by way of deposit on account of the whole of the purchase price aforesaid shall pay the residue of such purchase price on the —— day of —— next, to the said [*vendor*] at the offices, No. —— in —— Street, ——, of Messrs. ——, the solicitors of the said [*vendor*]. If the whole of the said purchase price shall not be paid on that day, the said [*purchaser*] shall, unless prevented from completing the said purchase by the said [*vendor's*] wilful default pay to the said [*vendor*] interest at the rate of —— per cent. per annum on the sum for the time being unpaid until actual payment.

3. Upon payment of the whole of the said purchase price the said [*vendor*] will deliver to the said [*purchaser*] possession of the said dwelling-house and premises, furniture and effects, and also the said school and all the benefits, emoluments, and interest whatsoever, therein and appertaining thereto, and will, at the cost of the said [*purchaser*] whenever thereunto required by her, execute a proper assignment of the said goodwill and school, and also of her estate and interest in the said dwelling-house and premises during the residue of the said term of —— years subject to the rent, covenants and conditions contained in the said lease.

4. The said [*vendor*] will use her best and utmost endeavours to secure to the said [*purchaser*], as her successor, all the pupils connected with, and now attending the said school and will introduce and recommend her not only to the parents, guardians, and friends of such pupils, but also to her friends and connections as such successor.

(*b*) Stamp. *Ad valorem* conveyance duty on the cash price for the goodwill.

5. The said [*vendor*] will not do, either directly or indirectly, any act, matter or thing whatever whereby the said [*purchaser*] may be prevented from enjoying the full benefit and advantage of the said school and the future profits and emoluments arising therefrom in as full and beneficial a manner as the said [*vendor*] now holds and enjoys the same, and will not willingly prejudice or injure the said [*purchaser*] either in connection with the parents and guardians of the said pupils, or any of them, or in any other manner howsoever, but will, in all things, endeavour to uphold the reputation of the said [*purchaser*] as well as of the said school

6. The said [*vendor*] will not, within —— years from the date hereof, without the consent in writing of the said [*purchaser*], open, carry on, or conduct any other school at —— aforesaid, or within a radius of —— miles thereof, or assist in or become connected with any other school, directly or indirectly, or take an interest therein or encourage any other person to do so, or teach or assist in teaching or instructing any private pupils at —— aforesaid, or within the radius aforesaid.

7. The valuation mentioned in clause 1 hereof shall be made by —— of &c. or him failing by —— of &c.

8. The said [*vendor*] shall be entitled to all school fees and other profits of the said school up to the said —— day of ——, and shall discharge all outgoings in connection with the said school and dwelling-house up to that day. If required the said [*purchaser*] will use her best endeavours to collect the said school fees and profits for the said [vendor] and all necessary apportionments shall be made.

9. The said [*purchaser*] shall be entitled to use the name of the said [*vendor*] in connection with the said school for a period of —— years from the said —— day of ——, she duly indemnifying the said [*vendor*] against all liability by reason thereof.

10. If the said [*purchaser*] shall fail to complete this agreement the said [*vendor*] may by notice in writing determine this agreement and forfeit the said deposit.

IN WITNESS, &c.

[*Signatures of both parties.*]

50.

AGREEMENT for Sale of a Wine and Spirit Merchant's Business (*c*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the goodwill (*d*)

(*c*) Stamp. *Ad valorem* conveyance duty on the price of the goodwill.

(*d*) The goodwill of a business has been defined by Lord Eldon as "the probability that the old customers will resort to the old place" (*Cruttwell* v. *Lye* (1810), 17 Ves.

of and in the trade or business of a wine and spirit and ale, beer, cider and porter merchant, now carried on by the vendor at ——, and also all the stock-in-trade now belonging to and used in the said trade or business, consisting of British and foreign wines, spirits, liquors, ales, beer, porter, cider and compounds, and all the implements, utensils, tools, fixtures, fittings [horses, vans, carts, harness], and all other the effects belonging to and now used in the said business.

2. The price for the said goodwill shall be the sum of £——. The price for the stock-in-trade and other effects shall be determined by valuation as hereinafter mentioned.

3. The vendor will grant a lease of the dwelling-house occupied by the vendor and of the offices, cellars, stores, stables, out-buildings and premises now used in connection with the said business, to the purchaser and at his expense for the term of —— years, to be computed from the—— day of —— next and determinable at the expiration of the first —— years thereof, at the option of the said purchaser, at the yearly rent of £—— payable quarterly, clear of all deductions whatsoever, except landlord's property-tax such lease to contain all usual and proper covenants, clauses, conditions, and agreements, and to be settled by counsel on behalf of both parties, in case of disagreement between their solicitors in relation thereto.

4. The purchase shall be completed on the —— day of —— next, at which date upon payment of the said sum of £—— and the amount of the said valuation and execution by the purchaser of a counterpart of the said lease the purchaser shall be let into full possession of the said business. Up to the said date all outgoings in respect thereof shall be paid by the vendor.

5. The vendor will, if required, and without any compensation for the same, assist the purchaser in the conduct of the said trade or business for the space of —— calendar months, for the purpose of introducing him to the customers and connection therein and initiating him into the

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335, 346); but as the assignment by deed of the goodwill of a trade is a conveyance of *property* within the Stamp Act (*West London Syndicate* v. *Commissioners of Inland Revenue*, [1898] 2 Q. B. 507; *Muller and Co.'s Margarine Limited* v. *Commissioners of Inland Revenue*, [1900] 1 Q. B. 310; [1901] A. C. 217), it may be doubted whether on the sale of a business as a going concern, or on a dissolution of partnership, the term "goodwill" has not a somewhat larger meaning than this, so as to include every advantage which has been acquired by carrying on the business, and perhaps in its popular signification it may be treated as the business itself and connection thereof. Hence it is here put substantively as the subject of contract; but, if preferred, the wording may be: **All that the business of a —— heretofore carried on by the vendor at —— and the goodwill thereof, and also,** &c. (*as above*), or the indenture may assign the messuage and premises in which the business was conducted, and also: **all the beneficial interest and goodwill of the vendor in the said trade or business of a ——, so carried on by him as aforesaid.** The word "assets" in connection with a business will carry the goodwill so far as it consists of property: *Jennings* v. *Jennings*, [1898] 1 Ch. 378; *Re David and Matthews*, [1899] 1 Ch. 378, 386. The assignment of the goodwill gives the purchaser the right to use the vendor's name in the business so far as he does not in so doing expose the vendor to any liability: *Thynne* v. *Shove* (1890), 45 Ch. D. 577; and see *Levy* v. *Walker* (1879), 10 Ch. D. 436, 438, where a form of clause providing, on such assignment, for the exclusive right to use the name of the old firm is given.

management and conduct thereof, and will, as soon as conveniently may be after the execution hereof, permit the purchaser to attend daily at the offices, cellars and stores belonging to the said business until the completion of the purchase, for the purpose of such introduction and initiation without any remuneration from the vendor.

6. The trade book-debts due to the vendor up to the date of completion shall be recovered and received by him in priority to the trade-debts to become due to the purchaser.

7. The trade account-books shall remain at the said offices for the space of —— calendar months from the date hereof, and be open at all reasonable times for the inspection and use of the purchaser for the purposes of the said business, but the same shall be the exclusive property of the vendor, and, if required by him, be entirely under his control.

8. The said stock-in-trade, implements, utensils, tools, fixtures, fittings, [horses, vans, carts, harness,] and all other the effects hereinbefore mentioned shall be valued by two valuers one to be appointed by each party hereto or by their umpire to be appointed before the said valuers enter on their valuation and such valuation shall be conducted as if the same were an arbitration conducted pursuant to the Arbitration Act, 1889.

9. If for any reason other than the wilful default of the vendor the purchase shall not be completed on the said —— day of —— the purchaser shall pay to the vendor interest on the sum of £—— and the amount of the said valuation at the rate of [5] per cent. per annum from such date until actual completion but the vendor shall not be liable for any diminution in the value of the said business after such date nor shall he be bound to continue to carry on such business.

10. The purchaser shall not require any evidence of the vendor's title to the premises mentioned in clause 3 hereof.

11. The vendor will not, alone or in partnership, at any time hereafter, for the space of —— years (*e*) next after the completion of the said

(*e*) These restrictions must be reasonable as between the parties and consistent with the interests of the public (*Maxim-Nordenfelt Company* v. *Nordenfelt*, [1894] A. C. 535, 565; *Mason* v. *Provident Clothing and Supply Company, Limited*, [1913] A. C. 724; *Eastes* v. *Russ*, [1914] 1 Ch. 468; *Ropeway's, Limited* v. *Hoyle* (1919), 88 L. J. Ch. 446; *Putsman* v. *Taylor*, [1927] 1 K. B. 637, affirmed on Appeal, [1927] W. N. 103). Hence these limitations of time and distance are necessary. The vendor, however, must not solicit, or supply, such persons as were customers prior to the date of the agreement, on the principle that he cannot derogate from his own grant (*Trego* v. *Hunt*, [1896] A. C. 7; *Curl Brothers* v. *Webster*, [1904] 1 Ch. 685; *Boorne* v. *Wicker*, [1927] 1 Ch. 667). Where the vendor reserves the right of carrying on a similar business in the neighbourhood this clause must be altered accordingly, see *Johnson* v. *Helleley* (1864), 34 Beav. 63. The stipulation not to carry on business may be secured by requiring a bond with penalty, or a fixed sum may be named in the clause as liquidated damages. The question of the reasonableness of the restraint is for the Court (*Goldsoll* v. *Goldman*, [1914] 2 Ch. 603); if the restriction is so worded as to be partly good and partly bad, the Court may enforce the good part, if the parts are severable " by a blue pencil " (see *British Reinforced Concrete Engineering Company, Limited* v. *Schelff*, [1921] 2 Ch. 563; and it is now settled that different considerations apply to restrictive stipulations in contracts of sale of goodwill and the like stipulations in contracts of service, see *Morris, Limited* v. *Saxelby*, [1915] Ch. 57; [1916] 1 A. C. 688.

purchase, commence any business of a wine, spirit, or ale, beer, cider or porter merchant, or act as agent, assistant, clerk or otherwise directly or indirectly therein, at —— aforesaid, or within —— miles thereof, without the consent in writing of the purchaser first obtained.

IN WITNESS, &c.

[*Signatures of both parties.*]

51.

AGREEMENT for Sale of a Brewery Business (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendors*] of &c. (hereinafter called the vendors) of the one part and [*purchasers*] of &c. (hereinafter called the purchasers) of the other part.

WHEREAS the vendors have for the past —— years carried on the business of brewers and spirit merchants at —— in the county of —— under articles of partnership dated the —— day of ——

AND WHEREAS the assets of the said business now consist of (1) The freehold messuages and hereditaments specified in the First Schedule hereto free from incumbrances [*or* subject to the several mortgages specified in the same Schedule] (2) The brewery and malthouse situate at —— aforesaid held under a lease dated the —— day of —— and made between [*parties*] (3) The several leasehold public-houses or inns specified in the Second Schedule hereto and held for the respective terms of years and under the respective leases also specified in the same Schedule. (4) Certain fixed plant and machinery erected and being on the said brewery and malthouse and specified in the Third Schedule hereto, and (5) the stock in trade of the said business situate partly on the said brewery and malthouse and partly on the said public houses or inns consisting of malt, hops, beer, spirits, coal, hay, straw and other consumable articles, and horses, harness, motor, and other drays, waggons, carts, fittings, implements and utensils used in or belonging to the said business and casks, jars, bottles or flagons in the said premises either in the possession of the vendors or of customers of the vendors

AND WHEREAS the vendors occupy the messuages specified in the Fourth Schedule hereto as tenants from year to year

AND WHEREAS the purchasers have proposed to purchase all the above-mentioned property upon the terms hereinafter contained.

NOW IT IS HEREBY AGREED as follows :—

1. The vendors will sell and the purchasers will buy FIRSTLY, the fee simple in possession free from incumbrances [*or* subject to the respective mortgages specified in the First Schedule hereto] of the hereditaments specified in the First Schedule hereto [*or* in such Schedule]. SECONDLY, the said brewery malthouse, and public houses and inns hereinbefore

(*f*) Stamp. *Ad valorem* duty on the cash price for the goodwill and on the price for any equitable estates in land added to the mortgage debts on the land.

mentioned. THIRDLY, the said fixed plant and machinery. FOURTHLY, the interest of the vendors as yearly tenants of the messuages specified in the Fourth Schedule hereto, and FIFTHLY the goodwill of the business of the vendors.

2. The price for the purchase of the properties mentioned in clause 1 hereof shall be the sum of £—— of which £—— shall be the price for the goodwill of the said business. £—— shall be paid immediately after the execution of this agreement by way of deposit and the balance shall be paid as hereinafter mentioned.

3. The vendors will sell and the purchasers will purchase at a valuation to be made in manner hereinafter mentioned all such stock in trade of the said business as shall on the day hereinafter fixed for completion belong to the vendors whether then delivered or not and wheresoever the same shall be then situate, namely (1) All malt, hops, beer, spirits, coal, hay, straw, and other consumable articles. (2) All horses, harness, motor, and other drays, waggons, carts, fittings, implements and other utensils used in or belonging to the said business, and (3) All beer and spirit casks, jars, bottles, and flagons so used or belonging.

4. The said valuation shall be made as soon as conveniently may be after the execution of this agreement by two qualified valuers (one to be named by the vendors and one by the purchasers) or by an umpire to be appointed by the said valuers and if either party shall refuse or neglect to appoint a valuer and to notify in writing such appointment to the other party before the —— day of —— next or if the valuer appointed by either party shall refuse or neglect to act the valuation shall be made by the valuer of the other party (if his appointment shall have been duly notified) acting alone. If during the course of such valuation either valuer shall die or become incapable of acting the party who appointed such valuer may by notice in writing to the other party appoint a qualified substitute and for the purposes of such valuation such substitute shall as from the date of such notice stand in the place of the valuer originally appointed. The valuers or their umpire shall accept the entries and statements in the trade books of the vendors made therein since the —— day of —— as conclusive evidence that the casks, flagons, bottles, and jars, appearing on the —— day of —— to belong to the vendors do in fact so belong.

5. If the said valuation shall not have been completed on the said —— day of —— the valuers or their umpire shall fix an approximate sum to be paid to the vendors by the purchasers in pursuance of clause 3 hereof and shall complete the said valuation as soon as possible after that date.

6. So far as regards the freehold messuages specified in the First Schedule hereto the titles to which were carefully investigated by the vendors at the times of the respective purchases thereof the vendors will at their own cost furnish to the purchasers an abstract of such titles respectively for the past —— years, and will verify such titles so far as the materials in their possession enable them to do so, and the purchasers shall accept the titles so shown and verified without requisition or objection. The purchasers shall accept the landlord's receipt for rent payable in

respect of any leasehold property, or any property held by the vendors as yearly tenants hereby agreed to be sold and the production of the lease agreement or assignment (if any) purporting to vest the same in the purchasers as conclusive evidence that the same is so vested and is not liable to forfeiture.

7. On the —— day of —— next, and on payment of the amount of the said valuation or of such sum approximate thereto as may be fixed pursuant to clause 5 hereof (as the case may be), the purchasers shall have possession of all messuages and other property hereby agreed to be sold, and shall as from that date be considered entitled to the goodwill of the said business and shall pay the rents and all outgoings in respect of the said business, and other property hereby agreed to be sold and shall receive all incomings and profits in respect of the same, and shall keep the vendors indemnified against all liability in respect of such rents and outgoings. For the purposes of this clause all necessary apportionments shall be made. The vendors shall continue liable to pay and discharge all debts incurred on or before the said —— day of —— by them in respect of the said business and shall continue entitled to receive all debts due to them on such date in respect thereof. On the —— day of —— or as soon thereafter as conveniently may be the vendors and purchasers will execute such instruments as may be necessary or proper for vesting in the purchasers the properties mentioned in clauses 1 and 3 hereof except the hereditaments specified in the First Schedule hereto and for giving effect to the indemnity mentioned in this clause in such form as the vendors or their counsel shall decide.

8. The purchasers shall pay the amount of the said valuation or such approximate sum as may be fixed pursuant to clause 5 hereof upon the —— day of —— next. The difference between such approximate sum and the amount of the said valuation as finally ascertained shall, if the approximate sum is less than the amount of the valuation, be paid by the purchasers to the vendors on the completion of the valuation, and if the approximate sum exceeds the amount of the valuation be retained by the vendors in part-payment of the sum of £—— next hereinafter mentioned. The sum of £—— being the balance of the said purchase price of £—— after payment of the said deposit shall be paid by instalments of not less than £—— each, the first such instalment to be paid on the —— day of —— next and each succeeding instalment to be paid within [six] calendar months of the payment of the instalment immediately preceding. Each instalment shall bear interest at the rate of £[4] per cent. per annum from the said —— day of —— until payment.

9. The purchasers shall pay to the vendors interest at the rate of £[5] per cent. per annum on any payment which ought to be made hereunder on the —— day of —— next and which is not so made from such day until actual payment thereof.

10. Upon payment by the purchasers of the whole of the said purchase money (including the amount of the said valuation and interest) in accordance with these presents the vendors and all other necessary parties shall execute proper assurances of the properties specified in the First Schedule

hereto the costs of and incidental to such assurances being paid by the purchasers.

11. From and after the said —— day of —— and until the payment of the whole of the said purchase money (including the amount of the said valuation) and interest, the purchasers shall, to the best of their ability, carry on the said business efficiently and maintain the stores therein in the like manner as the same have been hitherto maintained and continue to employ the managers and servants therein employed on the said —— day of —— unless the vendors shall in the case of any individual manager or servant consent to the purchasers dismissing him or her.

12. The purchasers shall immediately after the said —— day of —— proceed to collect all debts appearing by the books of the said business to be due to the vendors and shall on the [Wednesday] in each week furnish the vendors with an account of the debts so collected during the preceding week and shall immediately pay to the vendors the amount so collected less [3] per cent. commission for the cost of collection. The vendors may at any time after the —— day of —— revoke the authority of the purchasers to collect any of the said debts which at the date of such revocation are unpaid and in respect of such debts the purchasers shall not be entitled to receive or deduct any commission.

13. All books used by the vendors or their agents in connection with the said business [except the banker's pass books, cash book, stocktaking books or private ledgers] shall remain on the brewery premises or other places where the same are usually kept for the period of —— calendar months from the —— day of —— next and the purchasers shall be entitled to make all reasonable use thereof. But all books relating to the said business shall remain the property of the vendors who shall at all times until the same are delivered to the vendors by the purchasers have full access thereto.

14. If the purchasers shall fail to comply with any of the provisions hereof the said deposit of £—— shall be forfeited to the vendors who shall be at liberty to resell the property at such time and in such manner as they think fit and any deficiency in price arising on and all expenses incurred in such resale shall after making allowance for such deposit be paid by the purchasers to the vendors as liquidated damages.

[15. *Arbitration Clause as in Form* 47, *clause* 15, p. 85, *supra*, *inserting after the words*, to be done hereunder, *the words*, except as regards the said valuation.]

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of freehold messuages* [*and mortgages*].]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of leasehold inns and leases under which same are held.*]

THE THIRD SCHEDULE ABOVE REFERRED TO.

[*Particulars of fixed plant and machinery.*]

THE FOURTH SCHEDULE ABOVE REFERRED TO.

[*Particulars of tenancies.*]

[*Signatures of all parties.*]

52.

AGREEMENT for Sale of a Grocery Business (*g*).

THIS AGREEMENT made, the —— day of —— BETWEEN [*parties as in Form* 51, p. 91, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendors will sell and the purchaser will purchase at the sum of £—— ALL THAT the goodwill of the business of grocers and provision dealers now and for several years past carried on by the vendors [in —— Street (*h*)] at —— and at a valuation to be made as hereinafter mentioned, all the stock, implements, and utensils-in-trade and effects of, and belonging to, and now used in the said business, and which shall be in the shop, storehouses and buildings of the vendors at the time of making the said valuation and also at a like valuation, all the fixtures and fittings now in the said shop, storehouses and buildings, and used in the said business.

2. Upon payment of the said sum of £—— and the amount of such valuations, on the —— day of —— next the vendors will execute at the cost of the purchaser a proper assignment to him of the goodwill of the said business and give him possession of the said shop, storehouses and buildings, stock-in-trade, fixtures, fittings, implements, utensils and effects for his own absolute use and benefit.

3. The purchaser who has now paid the sum of £—— as deposit, on account of the said purchase, on having possession of the said shop, storehouses, buildings, fixtures and fittings, together with the said stock-in-trade, implements, utensils, and effects so agreed to be purchased as aforesaid, will pay the residue of the said purchase-money to the vendors on the —— day of —— at the office of Mr. —— of —— the vendors' solicitor.

4. The purchase shall be completed on the said —— day of —— next up to which time all debts, liabilities and outgoings shall be defrayed by the vendors.

5. The valuation of the said stock, implements, utensils in trade and effects shall be made upon the basis of cost prices of the new stock and with a reduction, not exceeding —— per cent, on such part of the stock as shall be considered by the valuers as old or damaged stock.

6. [*Clause as to payment of interest as in Form* 51, *clause* 9, p. 93, *supra*.]

(*g*) Stamp. See note (*f*), p. 91, *ante*.

(*h*) If the vendors have several businesses in different places, and are selling only one of them, it is proper to name the street in which it is carried on, so as to distinguish it from the others.

7. The vendors will let the said shop, storehouses and outbuildings to the purchaser as a yearly tenant from the —— day of —— at the annual rent of £——, clear of all deductions, the purchaser putting and keeping the same in tenantable repair. [AND ALSO will use their best endeavours to obtain a lease for —— years of the said premises from the owner thereof, at the said rent, and under and subject to the covenants, conditions, stipulations and agreements usually inserted in leases of the like or similar nature] (*i*).

8. [*Clause as to valuation as in Form* 51, *clause* 4, *p.* 92, *supra, omitting the last sentence of such clause.*]

9. If the purchaser shall neglect or refuse to complete this agreement according to the terms thereof, the vendor may by notice in writing forfeit the said deposit and determine this agreement.

AS WITNESS, &c.

[*Signatures of both parties.*]

53.

AGREEMENT for Sale of a Linen-Draper's Business (*k*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 49, *p.* 87, *supra.*]

WHEREBY IT IS AGREED as follows:—

1. The said [*vendor*] will sell, and the said [*purchaser*] will purchase, the goodwill of the trade or business of a linen and woollen draper, hosier, mercer, haberdasher, and outfitter now carried on by the said [*vendor*], at ——, and the stock of linen and woollen drapery, hosiery, mercery, haberdashery, and outfitting articles, goods and things now [*or* which at the time of taking over the same as hereinafter mentioned shall be] in the shops, warehouses, storehouses, and buildings in the occupation of the said [*vendor*], at —— aforesaid, and the tenant's fixtures and fittings thereon at the sum of £—— whereof the said [*purchaser*] has now paid the sum of £—— as a deposit. The price paid for the said stock articles and goods shall be £—— part of the said sum of £——.

2. The said [*vendor*] on the —— day of —— next, on receiving the residue of the said purchase-money, will assign the said goodwill and give possession of the said stock-in-trade and goods to the said [*purchaser*] and will also at the request and cost of the said [*purchaser*] endeavour to procure for him a tenancy from year to year of the premises on which the said business is now carried on at the rent and upon the terms at and upon which the said [*vendor*] now holds the same.

3. The said [*purchaser*] will pay the residue of the said purchase-money to the said [*vendor*] on the said —— day of —— next, upon

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(*i*) See note (*s*), *supra*, p. 81.

(*k*) Stamp. *Ad valorem* conveyance duty on the price excluding the price of the stock.

receiving possession of the said business, stock-in-trade, fixtures, fittings, and effects hereby contracted to be sold, as aforesaid.

4. The said [*vendor*] shall be entitled to carry on the said business for his absolute benefit until actual payment of the said sum of £—— or may if he so elects carry on the same for the benefit of the said [*purchaser*] as from the said —— day of —— and recover from the said [*purchaser*] interest at the rate of £[6] per cent. per annum on the amount of the said purchase money for the period between the said —— day of —— and the date of actual completion (*l*).

5. For the period of —— years from the said —— day of —— the said [*vendor*] will not save as aforesaid be directly or indirectly interested in any business of the kind hereby agreed to be sold within —— miles of —— aforesaid

6. If the purchase shall not be completed within [3] calendar months of the date hereof the said [*vendor*] may by notice in writing sent to the said [*purchaser*] determine this agreement and forfeit the said deposit.

IN WITNESS, &c.

[*Signatures of both parties.*]

54.

AGREEMENT for Sale of a Tailor and Draper's Business, where the Purchase-Money is Paid by Instalments (*m*).

THIS AGREEMENT made the —— day of ——, BETWEEN [*parties as in Form* 49, *p.* 87, *supra*]

WITNESSETH as follows :—

1. The vendor agrees to sell to the purchaser, who agrees to purchase ALL THAT the goodwill of the trade or business of a tailor and draper which the vendor now carries on in —— Street, in the town of ——, together with all the book debts now due and owing to the vendor in the said business, and all the stock, tools, implements, and utensils-in-trade, fixtures, and fittings belonging to the vendor and now being used therein and all the household furniture, goods, chattels, and effects whatsoever of and belonging to the vendor, and now being in and about the shop, now in his occupation situate at —— aforesaid [and comprised in the inventory hereunto annexed and signed by both parties hereto] and the vendor's tenancy of the said shop.

2. The vendor further agrees that he will, on payment of the balance of the purchase-money as hereinafter mentioned deliver up to the purchaser

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(*l*) The vendor, apart from this express provision, is *primâ facie* entitled to carry on the business at the risk of the purchaser until actual completion, in case of delay though the purchaser's fault, provided that he gives the purchaser prompt notice of what he is doing (*Golden Bread Company, Limited* v. *Hemmings*, [1922] 1 Ch. 162.

(*m*) Stamp. *Ad valorem* conveyance duty on the price of the goodwill and book debts.

possession of the said shop, fixtures, fittings, stock, tools, implements, and utensils, household furniture, and effects, and all the future benefits of the said business for his sole use and benefit and will thereupon, or at any time thereafter, at the request and expense, in all things, of the purchaser, assign to him the said goodwill and the said tenancy.

3. The purchaser, who has, upon the signing hereof, paid the sum of £—— to the vendor, who admits its receipt, by way of deposit on and in part payment of the purchase-money for the said goodwill, hereby agrees to pay the residue thereof at the times hereinafter mentioned.

4. The purchaser shall pay for the said goodwill and book debts of the said business the further sum of £—— on the —— day of —— next, for the stock, tools, implements and utensils-in-trade, fixtures and fittings, the sum of £—— on the —— day of —— next, and the value of the said household furniture, goods, chattels, and effects, to be ascertained by the valuation as hereinafter mentioned, on the —— day of —— next, when the purchase is to be finally completed [*or if the purchase is to be completed earlier*, but the said purchase shall be completed on the said —— day of —— next, and the two last-mentioned sums shall be secured by the bond [*or* promissory note] of the purchaser, with one approved surety, payable with interest, at the rate of £—— per cent. per annum, —— months after the date thereof].

5. All outgoings, in respect of the said business and premises, shall be defrayed by the vendor up to the —— day of ——, and thereafter by the purchaser.

6. The purchaser shall bear and pay all the costs of and attending the assignment aforesaid, but the costs of and attending the preparation and execution of this contract and relative and incident thereto shall be borne by the parties in equal shares.

7. If from any cause whatever the whole amount of the said purchase-moneys shall not be paid by the purchaser at the respective times aforesaid, he shall pay to the vendor interest thereon at the rate of £—— per cent. per annum from the times when the same respectively became so payable until the payment thereof, but if from any cause whatever, not attributable to the vendor, the purchase shall not be completed on the day hereinbefore appointed for that purpose, or if default shall be made in payment of either of the instalments as aforesaid, the vendor shall be entitled by notice in writing sent to the purchaser to determine this contract and forfeit the said deposit.

8. The valuation of the said furniture and effects hereby contracted to be sold, shall be made by [*valuer*] of etc. or him failing by [*valuer*] of etc.

IN WITNESS, &c.

[*Signatures of both parties.*]

55.

AGREEMENT for Sale of an Upholsterer, Cabinet-Maker, and House-Decorator's Business (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 49, *p.* 87, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The said [*vendor*] will sell to the said [*purchaser*], who will purchase at the sum of £——, ALL THAT the goodwill of the several trades or businesses of an upholsterer, cabinet-maker, and house-decorator which are now and for many years past have been carried on by the said [*vendor*], at —— AND ALSO, at a valuation to be made as hereinafter mentioned, all the stock-in-trade (manufactured and unmanufactured), tools, implements, and utensils, and all other articles and things now being used, and intended to be used, in and sold in the course of the said several trades or businesses and now being in the shops, workshops, storehouses, and buildings occupied by the said [*vendor*], at —— aforesaid (all of which shall be deemed to be hereinafter comprised in the words stock-in-trade and effects).

2. The said [*vendor*] on the said [*purchaser*] paying or giving security for the payment of the said sum of £—— and the amount of the said valuation, when made, will deliver to the said [*purchaser*] possession of the said several trades or businesses and of all the stock-in-trade and effects and upon full payment in cash of all moneys payable hereunder the said [*vendor*] will, at the request, cost and expense, of the said [*purchaser*] in all things, effectually assign the same to him accordingly.

3. If the said [*purchaser*] shall duly complete this contract, the said [*vendor*] will not at any time hereafter open any shop for or carry on any of the said trades or businesses, either solely or in partnership or connection with any other person or persons whomsoever, or in any other manner, directly or indirectly, at —— aforesaid or within —— miles thereof, without the previous consent in writing of the said [*purchaser*] and will not do any act or use any means to hinder or obstruct the said [*purchaser*] his successors or assigns in the full and beneficial enjoyment of the several trades or businesses, stock-in-trade and effects [but will use his best endeavours to promote the success of the said [*purchaser*] therein.]

4. The said [*purchaser*] who has immediately before the execution hereof, paid the sum of £—— by way of deposit will on the —— day of —— next on having immediate possession of the said shops and buildings to be held by him during the current tenancy of the said [*vendor*] and of the stock-in-trade and effects pay the residue of the said purchase-money and the amount of the said valuation, or secure the same to be paid by his acceptances to two bills of exchange, one payable —— months from the said —— day of —— next for one moiety thereof, and another, payable —— months from that day, for the other moiety thereof, such bills being

(*n*) Stamp. See note (*f*), p. 91, *ante*.

endorsed by one surety, to be approved by the said [*vendor*] and to carry interest on their respective amounts at the rate of £—— per centum per annum.

5. The said valuation shall be made and completed on or before the said —— day of —— next up to which time all outgoings in respect of the said trades or businesses shall be defrayed by the said [*vendor*].

6. The said valuation shall be made by Mr. —— of &c. on behalf of the said [*vendor*] and by Mr. —— of &c. on behalf of the said [*purchaser*] or by an umpire to be chosen by them before entering upon such valuation which shall be made in the usual manner and their or his award or decision shall be given, in writing, to each party on or before the —— day of —— next, or such later day as they may require, and shall then be binding and conclusive on both the said parties, in all respects, and time shall be of the essence of the contract.

7. If the said [*purchaser*] shall fail to perform this contract on his part, or to pay the said bills of exchange when and as they shall respectively become due, his deposit shall be absolutely forfeited to the said [*vendor*] who shall thereupon, or at any time thereafter, be at full liberty to resume possession of the said several businesses, stock-in-trade, and effects or to resell the same, and the said [*purchaser*] shall give up the peaceable possession thereof to the said [*vendor*] or such future purchaser.

IN WITNESS, &c.

[*Signatures of both parties.*]

56.

AGREEMENT for Sale of a Soda Water Manufactory (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 50, p. 88, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell to the purchaser, who agrees to purchase, at the sum of £—— payable as hereinafter mentioned, ALL THAT the goodwill of his trade or business of a soda water manufacturer, now carried on by him in —— Street at —— aforesaid, but limited to the district hereinafter mentioned, AND ALSO all the machinery, tanks, cans, bottles, jars, cases, and all other the articles, effects and things, manufactured and unmanufactured, and now used by the vendor in the said business, AND ALSO all his right and title to the same, and to the secrets and recipes relating thereto. Of the said price of £—— the price of the chattels belonging to the business shall be £—— part thereof.

2. The vendor shall forthwith fully instruct the purchaser or his agent, in the method of manufacturing soda water, and, upon the execution hereof, disclose to him the said secrets and deliver to him the original written recipes so as to give him the full and immediate benefit of the said business,

(*o*) Stamp. See note (*f*), p. 91, *ante*.

and enable him to carry it on in the same manner, in all respects, as the vendor has heretofore done.

3. The district in which the said business is to be carried on, and sales effected by the purchaser, shall be limited to a radius around —— of —— miles, extending from (but not including) —— on the east, —— on the west, —— on the north, and —— on the south.

4. The said purchase-money shall be paid as follows: the sum of £—— in cash, upon the execution hereof, the sum of £—— by the acceptances of the purchaser to bills of exchange (*p*) of the vendor [indorsed by an approved surety] one of such bills for £—— at —— months' date, another for £—— at —— months' date, and the residue by weekly instalments of £—— each commencing on the —— day of ——.

5. The vendor shall not set up or carry on a like business, or manufacture or sell soda water either by himself, or in partnership or connection with or for any other person or persons whomsoever, directly or indirectly, within the said radius [of —— miles from and around —— aforesaid].

6. The purchaser shall not set up, carry on and exercise the said businesses, or either of them, in manner aforesaid, personally or otherwise, beyond the radius aforesaid.

IN WITNESS, &c.

[*Signatures of both parties.*]

57.

AGREEMENT for Sale of a Horse-dealer's Business, Vendor to be Employed as Manager (*q*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 50, p. 88, *supra*].

WITNESSETH as follows:—

1. The vendor agrees to sell and the purchaser agrees to purchase ALL THAT the goodwill of the business of a horse-dealer now carried on by the vendor, at —— aforesaid, at the sum of £—— now paid to him (the receipt whereof the vendor hereby acknowledges).

2. The purchaser agrees with the vendor.

(i) For the term of —— years, from the date hereof, if both parties shall so long live, to take and retain the vendor into his service in the capacity of a salesman, to manage and conduct the said business in the purchaser's behalf at —— aforesaid, and at such other places as the purchaser shall think fit to carry on the said business, the vendor faithfully acting and duly accounting as hereinafter mentioned.

(*p*) As to a bill of exchange given on account of a debt, see *Allen* v. *Royal Bank of Canada* (1925), 95 L. J. P. C. 17.

(*q*) Stamp. *Ad valorem* on the purchase price. If any horses or stock are also taken over clauses to that effect must be added.

(ii) For such faithful services to pay or allow the vendor to retain out of the moneys coming into his hands in the course of such business the weekly sum of —— shillings together with the share of profits hereafter mentioned (*r*).

(iii) At the expiration of the said service, or the sooner determination thereof by the purchaser in manner hereinafter mentioned to give the vendor the right of pre-emption of the said business, at the sum of £——.

3. The vendor agrees with the purchaser that he will carry on, manage, and conduct the said business henceforth as salesman, for and on behalf of the purchaser, according to the best of his ability, skill, and knowledge and also find and provide the necessary stabling and premises for carrying on the said business in the same manner as he is now carrying on the same (*s*), he being also allowed to deduct the rent thereof out of any moneys which may be received by him in the course and on account of the said business, and will duly account with the purchaser monthly or oftener if required, for all moneys received and paid by him in the course and on account of the said business.

4. The vendor shall be entitled to retain by way of a share of the profits —— per cent. out of the gross receipts so accounted for, but nothing herein contained or to be done in pursuance hereof shall constitute the vendor a partner in the said business.

5. The purchaser shall be at full liberty at all times, if he should think fit, to superintend the said business, inspect and examine all accounts, books of account, documents, securities, letters, and papers whatsoever relating thereto and to enter at all times into the stables and upon the yards and premises now or hereafter to be used for the purposes of the said business as aforesaid, and to inspect the same and all the horses, carriages, vehicles, effects, and things therein and thereon and also to give all such orders and directions to servants and others relating thereto as he shall consider proper or desirable.

6. The purchaser may determine the said service whenever he shall think fit, by giving to the vendor —— calendar months' previous notice in writing for that purpose.

IN WITNESS, &c.

[*Signatures of both parties.*]

(*r*) Sharing of profits, though usually a strong raising presumption of the existence of a partnership, does not necessarily involve it, in the case of a loan, service or retiring allowance—though in these cases any other circumstances pointing in the same direction will be taken into consideration: Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 2. The contract should be in writing, and expressly exclude such intention.

(*s*) This arrangement will leave the vendor, owner or lessee (as the case may be) of the premises where the business is carried on, and will not be prudent except where from causes known to the purchaser the business might be damaged by any other course.

CHATTELS AND CHOSES IN ACTION.

58.

AGREEMENT for Sale of Stock-in-trade, Furniture and Effects (*t*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 49, p. 87, *supra*].

WITNESSETH as follows :—

1. The said [*vendor*] agrees to sell to the said [*purchaser*] who agrees to purchase, at the valuation and upon the terms hereinafter mentioned, All the stock, implements, trade utensils, household furniture, fixtures, fittings and effects, specified in the schedule hereunder written, now being in and about the inn, called The —— Inn, cellars, stores, stabling, outbuildings, yards, and premises, now in the occupation of the said [*vendor*], situate at ——.

2. The said valuation shall be made on or before the —— day of —— next, at which date the amount of such valuation shall be paid to the said [*vendor*], who will thereupon deliver to the said [*purchaser*] possession of the said chattels and effects.

3. The said valuation shall be made by two valuers, one to be chosen by each party, or by an umpire to be chosen by such valuers before entering upon such valuation, and such valuation shall be deemed to be for all purposes an arbitration within the meaning of the Arbitration Act, 1889.

4. In case the said [*purchaser*] shall refuse or neglect to pay the amount of such valuation on the said —— day of —— next, or if the said [*vendor*] shall refuse or neglect to deliver up possession of the said chattels and effects, then, and in either of such cases, the defaulting party shall forfeit and pay to the other of them the sum of £—— as liquidated damages and these presents shall become void.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of stock-in-trade, fixtures and fittings.*]

[*Signatures of both parties.*]

59.

AGREEMENT for Sale of Farming Stock and Tillages (*u*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 49, p. 87, *supra*].

WITNESSETH as follows :—

1. The said [*vendor*] agrees to sell to the said [*purchaser*], who agrees to purchase at a valuation to be made as hereinafter mentioned, ALL the

(*t*) No stamp.

(*u*) Stamp. See note (*c*), p. 106, *post*.

live and dead farming-stock, crops and tillages now being in and upon the farm and lands in the occupation of the said [*vendor*], situate at ——, and known as —— Farm.

2. The value of the said stocks, crops and tillages shall be ascertained and determined according to the custom of the country by [*valuer*] of &c. on the part of the said [*vendor*] and [*valuer*] of &c. on the part of the said [*purchaser*], or by an umpire to be chosen by such valuers before they enter upon such valuation.

3. The said [*purchaser*] shall pay the amount of the said valuation to the said [*vendor*] within —— days after the completion of the said valuation. If the said payment shall not be made within the time aforesaid the said [*purchaser*] shall pay to the said [*vendor*] interest on the said amount at the rate of £—— per cent. per annum from the expiration of the said period of —— days until actual payment.

4. The said [*vendor*] shall defray all rents, rates and taxes and other outgoings due and to become due or payable for or in respect of the said farm and lands up to the —— day of —— next, and will, with the consent of the landlord which has been already obtained [*or*, which the said [*vendor*] will use his best endeavours to obtain] peaceably relinquish and give up the full and absolute possession of the said farm and lands, with the stock, crops and tillages thereon, unto the said [*purchaser*], on the said —— day of —— next, on receipt of the amount of the said valuation.

5. The said [*purchaser*] will indemnify the said [*vendor*] against all liability for or in respect of dilapidations, deterioration of the holding, or otherwise, in respect of the said farm and lands.

6. The said [*purchaser*] shall pay all rents, rates and taxes and other outgoings to become payable for or in respect of the said farm and lands from the said —— day of —— next.

[6A. If the consent of the said landlord to accept the said [*purchaser*] as tenant of the said farm shall not be obtained by the said [*vendor*] before the —— day of —— next, this agreement shall be void.]

7. If any of the said live stock shall die or suffer injury before the completion of the said valuation, the said [*vendor*] shall permit the said [*purchaser*] to deduct from the amount ascertained by the said valuation the depreciation of value of the said live stock so caused, the amount of such depreciation to be likewise ascertained by the said valuers or umpire.

IN WITNESS, &c.

[*Signatures of both parties.*]

60.

AGREEMENT between Landlord and Tenant, the Landlord taking the Stock and Tillage in lieu of Rent (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. of the one part and [*tenant*] of &c. of the other part.

WHEREBY IT IS AGREED as follows:—

1. The said [*tenant*] will give to the said [*landlord*] [or his incoming tenant] on the —— day of —— next, peaceable possession of the farm, farm-house, outbuildings, yard, and several closes, pieces or parcels of land now rented and occupied by him of the said [*landlord*] situate at —— and all the live and dead stock, crops and tillages on the said farms and lands.

2. The said [*landlord*] will forego, and relinquish to and for the benefit of the said [*tenant*], all claims and demands whatsoever for rent, dilapidations, deterioration of the holding, or otherwise, now or hereafter to become due to him from the said [*tenant*] in respect of the said farm and premises, up to the said —— day of —— next and will purchase and take all the live and dead stock, crops and tillages which shall be then on the said farm and premises at a fair valuation as between incoming and outgoing tenants, according to the custom of the country.

3. The said valuation shall be made by —— of &c. on or before the said —— day of —— next when the sum of £—— being one half-year's rent [*or other portion*] shall be retained by the said [*landlord*] out of the amount of such valuation, and the residue (if any) thereof shall be paid by or on behalf of the said [*landlord*] to the said [*tenant*] who shall waive and forego all claims and demands, if any, which he may then have on or against the said [*landlord*] either for damage done to his crops by game or rabbits or otherwise howsoever, and the said sum of £—— to be retained by him as aforesaid shall be accepted by the said [*landlord*] in full satisfaction of all his claims and demands on or against the said [*tenant*] for or in respect of rent, [dilapidations, deterioration of the holding,] breach of agreement, or on any other account whatsoever.

IN WITNESS, &c.

[*Signatures of both parties.*]

61.

AGREEMENT for Sale of Standing Corn (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

(*a*) Stamp. See note (*c*) on p. 106, *post*. As to a tenant's right to compensation for agricultural improvements, see the Agricultural Holdings Act (13 & 14 Geo. 5, c. 9), s. 1; and as to market gardens: *ibid.* ss. 48, 49.

(*b*) No stamp.

WHEREBY IT IS AGREED as follows :—

1. The vendor, in consideration of £—— paid to him by the purchaser upon the execution hereof, will sell, at the price hereinafter mentioned, and at his own expense duly harvest, thresh out, and deliver, in good condition, to the purchaser, who will purchase and take delivery of the same at his mill at —— aforesaid, within —— weeks from the date hereof, —— quarters of good wheat, now growing and being on the vendor's farm called —— at —— aforesaid, the balance of the purchase money for such wheat to be paid on delivery at the then market price [to be ascertained by the *London Gazette*] [or at the average price at the market of —— on the market day immediately preceding delivery].

2. In order to secure the repayment of the said sum of £—— in case of the non-delivery of the said wheat, and the damages and expenses attending the same, the vendor has entered into and delivered unto the said purchaser his promissory note, bearing even date herewith, for £—— upon the condition hereinafter expressed.

3. The said promissory note shall be held (not negotiated) by the purchaser, and shall be considered liquidated and shall be handed over to the vendor on delivery of the said —— quarters of wheat at the time and place aforesaid but in case of the non-delivery thereof accordingly, the said promissory note shall then remain in full force for the recovery of the said sum of £—— [with all costs and charges] as liquidated damages between the said parties for the non-performance of this agreement.

IN WITNESS, &c.

[*Signatures of both parties.*]

62.

AGREEMENT for Sale of Growing Timber (*c*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 61, *supra*].

WITNESSETH as follows :—

1. The vendor agrees to sell to the purchaser, and the purchaser agrees to purchase at the sum of £—— on which a deposit of £—— has now been paid to the vendor ALL those, the oak, ash, beech, and elm timber and other trees, namely, —— oak, —— ash, —— beech, —— elm, and —— birch and walnut trees marked with the letters —— and now standing, growing and being on a certain estate called the —— situate at —— in the said county of ——, and belonging to the vendor, and the lops, tops, shrouds and bark thereof.

(*c*) Stamp 6*d*. An agreement for the sale of a crop in the nature of chattels requires no stamp (Stamp Act, 1891, Sched. "Agreement," Exemption (3)), but if the agreement is a contract for an interest in land it will require a 6*d*. stamp if the matter thereof is of the value of £5 (Encyclopædia of Forms, vol 6, p. 163, and vol. 19, p. 877).

As to the sale of timber by a tenant for life see the Settled Land Act, 1925 (15 & 16 Geo. 5, c. 18), s. 65, and as to his powers to enter into contracts see s. 90.

2. The vendor will grant unto the said purchaser and his sub-purchasers, if any, full and free licence, power and authority for him and them, and his and their agents, servants and workmen, to enter into and upon the coverts, plantations, lands and premises to fell the said trees, and cut such of the underwood as may impede the cutting and felling, and removal thereof and to bark such of the said trees as are oak, and to place the bark thereof in convenient places for drying the same and to lop, top, and shroud the whole of the said trees, and place the lops, tops, and shrouds thereof in proper and convenient places for removing the same and also to remove the whole of the trees and the bark, lops, tops, and shrouds thereof when and as the purchaser or his sub-purchasers shall think proper, but within the limit hereinafter mentioned.

[2A. The vendor will also grant to the purchaser the full and free liberty, power and authority to and for him and his sub-purchasers and his and their servants, agents, and workmen respectively to dig or set up on the banks or elsewhere, in convenient parts of the said estate to be approved by the vendor, his agent, or woodman such saw-pit or saw-pits, stages, and other erections as the purchaser or sub-purchasers shall consider necessary for so converting and carrying away the said timber, he and they doing no unnecessary damage thereby, and within the time hereinafter mentioned filling up the said pits, and removing the stages or erections, and repairing the hedges and fences damaged by the said works.]

3. The purchaser agrees to fell, shroud, and carry the whole of the said trees, with the bark, lops, tops, and shrouds thereof, from off the said estate on or before the —— day of —— next, doing no unnecessary damage thereby, and to repair all such damage as may necessarily be occasioned to the underwood, grass crops, and the roads, hedges, and fences belonging to the vendor or his tenants.

4. The purchase shall be completed on the —— day of —— next, when the residue of the purchase-money shall be paid, and in this respect time shall be of the essence of the contract.

5. If the residue of the said purchase-money shall not be paid on the said —— of —— the vendor may by notice in writing forfeit the said deposit and determine this agreement and revoke every licence, power and authority hereby conferred, and the purchaser shall thereupon forthwith remove all plant, tools, and other things brought by him upon the premises and make good all damage caused by him, his sub-purchasers or servants.

6. [If any question, dispute, or difference shall arise touching or relating to the amount of any compensation to be made by the purchaser, in respect of any damage or other matter or thing whatsoever arising under this contract or relating thereto, such question, dispute, or difference shall be referred to two arbitrators, one to be appointed by each party or their umpire, such arbitration to be conducted according to the Arbitration Act, 1889.]

IN WITNESS, &c.

[*Signatures of both parties.*]

63.

AGREEMENT by a Landlord to buy Stock and Effects seized under a Distress (*d*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 60, p. 105, *supra*].

WHEREAS the said [*landlord*] on the —— day of —— instant, caused a distress to be levied on the cattle, stock and implements, and also on the household furniture, goods, chattels, and effects of the said [*tenant*] on the lands and in the mill and dwelling-house, offices, outbuildings and premises rented of him by the said [*tenant*], and situate at &c. for the sum of £——, being arrears of rent due from the said [*tenant*] for or in respect of the said premises, and, in order to avoid the expense of carrying out such distress, it has been arranged that the said parties shall enter into the agreement hereinafter expressed

NOW THESE PRESENTS WITNESS as follows : —

1. The said [*landlord*] hereby agrees to purchase, at a valuation to be made, on or before the —— day of —— next, by two appraisers, one to be chosen by each party, or by their umpire, to be chosen by such valuers before entering upon such valuation, as well the said cattle, stock and implements, furniture and effects, so seized as aforesaid, as also all such fixtures and fittings as have been set up, attached or affixed in or to the said mill, dwelling-house and premises by the said [*tenant*].

2. The amount of the said valuation shall be set off against the amount of the said rent, and any difference between the two amounts shall be paid by the said [*landlord*] or the said [*tenant*] as the case may be to the other of them.

3. The said [*tenant*] shall be allowed to remove from the said mill all his books of account, bills and papers, and also from the said dwelling-house all such articles of furniture, ornaments and bedding as he may select, not exceeding in value £—— for his own absolute use and benefit, such value being determined by the said appraisers.

4. The said [*tenant*] hereby agrees to surrender the peaceable possession of as well the said mill, dwelling-house, offices, outbuildings, lands and premises, as also the said cattle, stock-in-trade, implements, fixtures, fittings, furniture and effects to the said [*landlord*] or to [his incoming tenant, or] such person or persons as he shall appoint to receive the same, on the said —— day of ——, provided the said valuation shall then have been made, but if not, then as soon as the same shall have been completed, and notice thereof given, in writing, to him, the said [*tenant*], such allowance being made as aforesaid.

5. The said [*tenant*] shall, in the meantime, and until the said valuation shall have been made, retain possession of the said mill, dwelling-house, lands, furniture and premises [*If so*, jointly with —— who is deputed

(*d*) Stamp 6*d*.

to hold possession under the said distress on behalf of the said [*landlord*], and continue to carry on his said business for his own benefit, so as to preserve the connection and custom thereof.

6. In case the agreement hereby made shall not be finally and fully performed on the part of the said [*tenant*], the said [*landlord*] shall have full power and authority to carry out the said distress according to law, in the same manner and as fully and effectively in all respects as if these presents had not been made, and the said [*tenant*], in such case, shall not take or attempt to take any manner of advantage of any defect or irregularity, which may have occurred or exist, or have been committed in the levying of, or otherwise under or in course of the said distress.

7. On this agreement being duly performed, the said [*landlord*] shall give the said [*tenant*] a full and effectual discharge as well from all such rent as shall be then due, as also for any other claim or demand which he may then have against him or upon the effects so to be taken by him as aforesaid.

IN WITNESS, &c.

[*Signatures of both parties.*]

64.

AGREEMENT by a Landlord to take Tenant's Fixtures at a Valuation (*e*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 60, p. 105, *supra*].

WHEREAS the said [*tenant*] is about to quit the dwelling-house, domestic offices, outbuildings and premises in his occupation, belonging to the said [*landlord*], situate at ——.

NOW IT IS HEREBY AGREED as follows:—

1. The said [*tenant*] will sell to the said [*landlord*] ALL the tenant's fixtures and fittings now being in the said dwelling-house, offices and buildings at a valuation to be made as hereinafter mentioned.

2. On payment of the value of the said fixtures and fittings according to the said valuation the said [*tenant*] will relinquish and give up the full and peaceable possession thereof and of the said premises to the said [*landlord*], or as he shall, in writing, direct.

3. The said [*landlord*] will take the said fixtures and fittings at the said valuation and pay for the same on receiving notice, in writing, of the completion and amount thereof.

4. The said valuation shall be made by [*valuer*] of &c. and the decision of such valuer as to what are tenant's fixtures and fittings shall, as between the parties hereto, be final and conclusive.

5. Such valuation shall be completed, and notice of such completion and the amount thereof shall be given to both the said parties on or

(*e*) No stamp.

before the —— day of —— next, and in this respect time shall be of the essence of this contract, unless any delay shall unavoidably arise by or through the neglect or default of the said valuer.

IN WITNESS, &c.

[*Signatures of both parties.*]

65.

AGREEMENT for Sale of a Life Policy (*f*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*vendor*] of &c. of the one part and [*purchaser*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*vendor*] will sell to the said [*purchaser*] and the said [*purchaser*] will purchase, free from all incumbrances, at the sum of £—— of which a deposit of £—— has now been paid, ALL THAT policy of assurance numbered ——, and dated the —— day of —— effected by the said [*vendor*] with The —— Assurance Society, in London, on his own life [*or* the life of —— now aged —— years and upwards] in the sum of £—— which is assured to be paid to the [said [*vendor*] or the] executors, administrators or assigns of the said [*vendor*] within —— calendar months after due proof of his death [*or* the death of the said ——] on payment of the annual premium of £—— in the meantime, AND ALSO all present bonuses, additions, and accumulations thereon [which now amount to the sum of £—— at the least] and all future additions thereto with full power to ask, demand, receive and give effectual receipts, as well for the sum so assured, so also for the said additions to and accumulations in respect thereof.

2. The said [*vendor*] will, at his own expense, deduce a good title to the said policy, and will, at the expense of the said [*purchaser*], effectually assign and transfer the same and the moneys payable by virtue thereof unto him, or as he shall direct, absolutely, on payment of the residue of the said purchase-money, on the —— day of —— next, at the office of Mr. —— the vendor's solicitor at —— when and where the purchase shall be completed and in this respect time shall be of the essence of this contract

3. The said [*purchaser*] will pay the residue of the said purchase-money on the said —— day of —— next at the office of the said [*vendor's*] solicitor.

[3A. If the person assured should be dead at the time of the completion of the purchase these presents shall become void, and the said [*vendor*] shall be entitled to all the benefits of the said policy in all respects as if such death had occurred before the execution hereof [*or* the said [*purchaser*] shall, nevertheless, be entitled to all the benefits of the said policy in all respects as if such death had occurred after the execution hereof].

(*f*) Stamp. *Ad valorem* on the consideration money (Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 59). For an agreement for sale of a policy by a mortgagee, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 3, p. 300.

4. The age of the said [*vendor*] [*or* person assured] shall be admitted to be —— years at the date hereof, and the production of the receipt for the premium last due on the said policy prior to completion —— shall be conclusive evidence that the said policy is in full force and unimpeachable.

5. In case the said [*purchaser*] shall refuse or neglect to pay the said purchase-money on the —— day of —— this agreement shall be determined and the said [*vendor*] shall be entitled to forfeit the said deposit.

IN WITNESS, &c.

[*Signatures of both parties.*]

66.

AGREEMENT for Sale of a Life Policy for an Annuity (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 65, p. 110, *supra*].

WHEREAS by a policy of Assurance, No. ——, and bearing date the —— day of ——, effected by [*father*] [the father of [*son*], late of &c. the late husband of the said [*vendor*]], with The —— Life Assurance Company, the sum of £—— is assured to be paid to the executors, administrators or assigns, of the said [*father*] within —— calendar months next after his death, on payment of the annual premium of £—— in the meantime

AND WHEREAS by an indenture, dated the —— day of ——, the said policy with all benefits to be derived therefrom, was assigned to and became absolutely vested in the said [*son*] subject only to the payment of the said premium and of the sum of £—— lent and advanced to the said [*father*] by the said company, with interest thereon at the rate of £—— per centum per annum

AND WHEREAS the said [*son*] died on the —— day of ——, and on the —— day of —— following, letters of administration to his effects were granted to the said [*vendor*] out of the Principal [*or* —— District] Registry of the Probate Division of the High Court of Justice

AND WHEREAS the said Assurance Company, on the —— day of —— last, advanced to the said [*vendor*] as such administratrix the further sum of £—— at interest, on security of the said policy, making, with the said sum of £——, [and interest thereon] £——

AND WHEREAS the said [*vendor*] being desirous of making a better provision for the maintenance and comfort of the said [*father*] [who is now of the age of —— years and upwards] has, by an indenture bearing even date herewith, and made between the parties hereto, assigned the said policy, and all benefit and advantage whatsoever to be derived therefrom, unto the said [*purchaser*], subject, nevertheless, to the payment

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(*g*) Stamp. *Ad valorem* conveyance duty calculated in accordance with s. 56 of the Stamp Act, 1891 (54 & 55 Vict. c. 39).

of the said premium and the said sum of £—— so advanced by and now due to the said company as aforesaid, with interest thereon, and to his entering into the agreement hereinafter expressed.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*purchaser*] hereby agrees with the said [*vendor*], that he, the said [*purchaser*], will duly pay to the said [*father*], or apply in such manner as he, by writing, shall appoint, the sum of —— shillings per week for the board, lodging, washing and mending the clothes of him the said [*father*] during the term of —— years if the said [*father*] shall so long live, such term to be computed from the day of the date hereof and also will pay to the said [*father*] or as he shall direct, the sum of —— shillings per week during the said term, if he should so long live for his own private use, which said payments, amounting to £—— per annum, will, at the expiration of the said term, amount to £——, which is to be deemed the full consideration money for the purchase of the said policy by the said [*purchaser*] subject, nevertheless, to the conditions relating thereto hereinafter contained.

2. The said [*purchaser*] will pay the premium now due on the said policy and all other premiums henceforth to become payable thereon during the said term and also will pay or allow out of the moneys ultimately to become payable upon or by virtue of the said policy, the said two sums of £—— and £—— so advanced by the said Assurance Company as aforesaid with interest thereon, in the meantime, when and as the same shall become payable.

3. If the said [*purchaser*] shall make default in payment of any or either of the said weekly sums when and as they shall become due or be required, in writing, to be paid, or of the said premiums when and as they shall respectively become due, during the said term or of either of the said sums of £—— and £——, whenever payment thereof shall be required by the said Assurance Company or of the interest thereof when and as the same shall become payable in the meantime then, and in either of such cases, this agreement and the assignment hereinbefore mentioned, shall thereupon become absolutely void, and the said policy and moneys, and all benefits and advantages whatsoever to be derived therefrom, shall be forthwith reassigned to the said [*vendor*] but subject, nevertheless, to the same liabilities as the said policy was subject or liable to before such assignment was made, and the weekly sums and moneys which shall then have been paid in pursuance thereof, or of the said assignment, shall be absolutely forfeited to the said [*vendor*], as liquidated and settled damages, for or in respect of such breach of this agreement.

4. The said [*purchaser*] hereby irrevocably appoints the said [*vendor*] to be his attorney in his name and on his behalf to execute such reassignment in the events specified in clause 3 hereof.

5. In the event of the death of the said [*father*] within the first year of the said term, the said [*purchaser*] shall repay the said [*vendor*] three fourth parts of the net moneys received or recovered under or by virtue of the said policy and if the said [*father*] shall die during the second year

of the said term, then the said [*purchaser*] shall repay to the said [*vendor*] two third parts of such net moneys; and if the said [*father*] shall die within the third year of the said term, then the said [*purchaser*] shall repay to the said [*vendor*] one third part of the said net moneys, but if the said [*father*] shall die after the expiration of the third year of the said term, the whole of the said net moneys shall belong absolutely to the said [*purchaser*].

IN WITNESS, &c.

[*Signatures of both parties.*]

67.

AGREEMENT for Sale of Reversionary Interests in Personality. Variation where the Sale is made by a Mortgagee (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will buy at the price of £——, FIRSTLY, ALL THAT the absolute reversion of the vendor [or [*mortgagor*] of &c.] expectant on the death of the vendor's [or the said [*mortgagor's*]] mother [*name*] who is now aged —— years and upwards of and in certain trust funds representing the residuary estate of the vendor's [*or* the said [*mortgagor's*]] late father and now consisting of the investments specified in the First Schedule hereto all of which now stand in the names of [*trustees*] of &c. the present trustees of the will dated the —— day of —— of the vendor's said father. AND SECONDLY, ALL THAT contingent reversion of the vendor [*or* the said [*mortgagor*]] expectant on his surviving his said mother in [one undivided [third] share of] the funds comprised in a settlement dated the —— day of —— and made between [*parties*] [together with any accretions to such undivided [third] share by reason of any brother or sister of the vendor [or the said [*mortgagor*]] predeceasing his said mother] which funds now consist of the particulars set forth in the Second Schedule hereto and are now standing in the names or under the control of [*trustees*] of &c. the trustees of the said settlement, AND THIRDLY, ALL THAT policy of assurance effected with the —— Assurance Society numbered —— and dated the —— day of —— under a premium of £—— whereby the sum of £—— is expressed to be payable to the vendor [*or* the said [*mortgagor*]] in the event of his predeceasing his said mother.

(*h*) Stamp. *Ad valorem* on the purchase price (Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 59). By the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 174, re-enacting the Sales of Reversions Act, 1867 (31 Vict. c. 4), no acquisition made in good faith and without fraud or unfair dealing of any reversionary interest in real or personal estate for money or money's worth is liable to be opened or set aside merely on the ground of undervalue. For cases on the repealed Act, see *Lord Aylesford* v. *Morris* (1873), 8 Ch. App. 484; *O'Rorke* v. *Bolingbroke* (1877), 2 App. Cas. 814, 833; *Fry* v. *Lane* (1888), 40 Ch. D. 312; and *Brenchley* v. *Higgins* (1900), 70 L. J. Ch. 788.

2. The title to the said absolute reversion shall commence with the said will and the title to the said contingent reversion shall commence with the said settlement.

3. The purchaser shall deliver his requisitions and objections, if any, to the title to the premises sold in writing to the vendor's solicitor Mr. —— at his office at —— within [seven] days after the delivery of the abstract and his observations, if any, on the vendor's replies to such requisitions and objections within [five] days after the delivery of such replies. Subject only to such requisitions objections and observations the purchaser shall be deemed to have accepted the vendor's title. For all the purposes of this clause time shall be of the essence of the contract.

4. The purchaser shall accept as conclusive evidence of the particulars and values of the investments now representing the residuary estate subject to the trusts of the said will and the funds comprised in the said settlement respectively a letter signed by the trustees of the said will and settlement respectively stating that the respective trust funds consist of the particulars and values set forth in the respective Schedules hereto.

5. The purchaser shall accept a statutory declaration, made or to be made at the vendor's expense stating the age of the vendor's [*or* the said [*mortgagor's*]] mother and the number, names, and ages of the persons contingently entitled to the trust funds comprised in the said settlement as conclusive evidence of the matters therein stated, and shall further accept as conclusive evidence that the vendor can sell the said reversions free from incumbrances a letter signed by the trustees of the said will and settlement that they have received no notice of any incumbrance or charge affecting the same or either of them [except the mortgage under which the vendor is selling].

6. The production of the last receipt for payment of premium prior to the date of completion shall be accepted as conclusive evidence that the said policy of assurance is valid and in full force at the date of completion. The vendor [*or* the said [*mortgagor*]] is now aged —— years and upwards. [The age of the vendor [*or* the said [*mortgagor*] has been admitted by the said Insurance Company and the purchaser shall not require any further proof of such age.]

7. If the purchaser shall make any requisition or objection which the vendor is unable or unwilling to satisfy or comply with the vendor may by notice in writing to the purchaser or his solicitor notwithstanding any previous attempt to satisfy or comply with the same or any negotiation or litigation rescind the contract without any liability for compensation, costs or otherwise, to the purchaser who shall forthwith return to the vendor all documents and papers in his possession belonging to the vendor. [But if the purchaser shall within seven days after receipt of such notice of rescission withdraw such requisition or objection by notice in writing to the vendor or his said solicitor, the said notice of rescission shall also be withdrawn unless the said reversions or either of them shall have fallen into possession since the date of the notice of rescission.]

8. The purchase shall be completed on the —— day of —— next at the office of the vendor's said solicitor, and in this respect time shall

be of the essence of the contract. On payment of the said sum of £—— the vendor will execute a proper assurance of the premises sold to the purchaser, such assurance to be prepared and perfected by and at the expense of the purchaser, and to be left at the office of the vendor's solicitor for execution at least five days before the said —— day of ——.

9. Without prejudice to the rights of the vendor under the preceding clause, if from any cause except the wilful default of the vendor the purchase-money shall not be paid in full on the —— day of —— the vendor may require the purchaser to pay interest on so much thereof as shall not be so paid at the rate of [5] per cent. per annum from the —— day of —— until actual payment.

10. Save as herein otherwise provided the purchaser shall be entitled to the full benefit of the said reversions and policy as from the date hereof, and shall pay all duties, if any, payable on the determination of any prior interests in the funds specified in the Schedule hereto.

[10A. The vendor is selling under his powers of sale as mortgagee of the said reversions and policy, and shall not be required to enter into any covenant for title except the implied statutory covenant against incumbrances.]

11. If the purchaser makes default in performing or observing any stipulation on his part herein contained the vendor may rescind the contract by notice in writing to the purchaser who shall pay the vendor on demand as liquidated damages any deficiency in price and all costs and expenses arising or incurred on any resale or attempted resale.

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of residuary estate.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of settlement funds.*]

[*Signatures of both parties.*]

68.

AGREEMENT for Sale of Life Interest in Personalty and a Policy of Life Assurance by a Mortgagee (*i*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 67, p. 113, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase at the price of £—— ALL THAT the life interest of [*mortgagor*] of &c. in the legacy of £—— [*or* the residuary estate] bequeathed by the will dated the —— day of —— of [*testator*] of &c. deceased upon trust for the said

(*i*) Stamp *ad valorem* on the purchase price.

[*mortgagor*] for his life, which said legacy [*or* residuary estate] is now represented by the investments specified in the Schedule hereto. AND ALSO ALL THAT policy of assurance for £—— effected with the —— Insurance Company on the life of the said [*mortgagor*] dated the —— day of —— and numbered —— under an annual premium of £——, and all bonuses and other moneys thereby assured or payable thereunder.

2. The purchaser having this day paid a deposit of £—— shall pay the residue of the said price on the day hereinafter fixed for completion.

3. The title to the said life interest shall commence with the will of the said [*testator*].

4. [*Clause as to requisitions as in Form* 67, *clause* 3, p. 114, *supra.*]

5. The purchaser shall accept as conclusive evidence of the particulars and values of the funds now representing the said legacy [*or* residuary estate] a letter signed by [*trustees*] of &c., in whose names as trustees of the said will the said funds stand, stating that such funds consist of the particulars and values set forth in the Schedule hereto.

6. The purchaser shall accept as conclusive evidence of the age and identity of the said [*mortgagor*] a certificate of his birth and a statutory declaration now in the possession of the vendor by a member of the family of the said [*mortgagor*] identifying him.

7. [*Clause as to validity of the policy as in Form* 67, *clause* 6, p. 114, *supra, down to the words* date of completion.]

8. [*Clause as to vendor's power to rescind as in Form* 67, *clause* 7, p. 114, *supra, omitting the words in square brackets and adding after the words* rescind the contract *the words* and shall thereupon repay the said deposit, but.]

9. [*Clause as to completion as in Form* 67, *clause* 8, p. 114, *supra, inserting the words* the residue of *before the words* the said sum of £——.]

10. [*Clause as to interest as in Form* 67, *clause* 9, p. 115, *supra.*]

11. This agreement shall not be affected by the death of the said [*mortgagor*] before the date fixed for completion.

12. The purchaser shall be entitled to the current income of the said legacy [*or* residuary estate] as from the said —— day of —— and all necessary apportionments shall be made.

13. [*Clause as to mortgagee's covenant as in Form* 67, *clause* 10A, p. 115, *supra.*]

14. [*Clause as to rescinding as in Form* 67, *clause* 11, p. 115, *supra, adding before the words* rescind the contract *the words* forfeit the said deposit and.]

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of investments.*]

[*Signatures of both parties.*]

COMMISSION.

69.

AGREEMENT with Agent for procuring a Purchaser of Land (*j*).

[*Address.*]
[*Date.*]

Dear Sir,

In the event of any person introduced by you to me purchasing my [freehold] property known as —— before the —— —— date of —— at the price of £—— or such less price as I may agree to accept for the same I will pay you a commission at the rate of [three] per cent. on the amount of the purchase-money actually received by me [*or* a commission calculated at [5] per cent. on the first £300 and at [2½] per cent. on the remainder of the purchase-money actually received by me] within —— days after the receipt by me of the whole of the said purchase-money. [You shall not be entitled to receive commission on such part of the said purchase-money as shall be paid to persons entitled to mortgage debts secured on the said property such part not to exceed £—— in all.] All sums advanced by me to a purchaser on the security of the said property shall be deemed to have been actually received by me. I am [not] to be entitled to employ any other agent for procuring a purchaser [until after the said —— day of ——]. The above-mentioned commission shall not be payable unless your introduction is the effective cause of the sale (*k*).

I am,
Faithfully yours,
[*Signature of vendor.*]

To [*Agent*] of &c.

70.

AGREEMENT for Brokerage on Shares or Debentures applied for in a Company (*l*).

[*Company's registered office.*]
[*Date.*]

THE —— COMPANY, LIMITED.

Issue of [200,000] ordinary [*or* preference] shares of £[1] each in the company.

(*j*) Stamp 6*d*. As to an Agent's duties see *Keppel* v. *Wheeler*, [1927] 1 K. B. 577.

(*k*) *Millar, Son & Co.* v. *Radford* (1903), 19 T. L. R. 575; *Nightingale* v. *Parsons*, [1914] 2 K. B. 621.

(*l*) Stamp 6*d*. A limited company has power to pay a reasonable brokerage on the issue of its shares (*Metropolitan Coal Consumers' Association* v. *Scrimgeour*, [1895] 2 Q. B. 604. Companies Consolidation Act, 1908 (8 Ed. 7, c. 69), s. 89 (3)). Inasmuch as debentures or debenture stock can be issued at a discount (*Re Anglo Danubian Steam Navigation and Colliery Co.* (1875), L. R. 20 Eq. 339), a brokerage or commission may always be paid on such an issue; and see Companies Consolidation Act, 1908 (8 Ed. 7, c. 69), s. 93 (4).

or

Issue of [2000] debentures of £[100] each in the company.

or

Issue of £[200,000] debenture stock of the company bearing interest at [4] per cent. per annum.

Dear Sirs,

For every share [*or* debenture *or* £100 of debenture stock] of the above issue applied for on a form of application bearing the stamp of your firm before the list is closed and duly allotted in pursuance of such application the company will pay your firm a brokerage commission of [three] pence [*or whatever commission may be agreed upon*]. You are to use your best endeavours to ensure that such applications are made only by solvent and responsible persons but without any absolute guarantee on your part to this effect.

Faithfully yours,

[*Signature of Secretary.*]

Secretary.

To [*brokers*] of &c.

71.

AGREEMENT for giving Information in Support of Title (*m*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*informant*] of &c. (hereinafter called the informant) of the other part.

WHEREAS the vendor is about to sell the fee-simple of a farm known as —— farm [*or*, a dwelling house, *or* several dwelling-houses and out-buildings,] situate at ——, in the county of ——, and now in the occupation of [*tenants*]

AND WHEREAS the informant alleges that he can furnish the vendor with important information relative to the title to the said estate.

NOW IT IS HEREBY AGREED as follows:—

1. The informant will give the vendor his solicitors and agents, when requested by him or them in writing all such information and assistance in the premises as shall be within his knowledge, means, power and ability for the purpose of enabling the vendor to sell the said property and to perfect the title thereto and shall if so required make a statutory declaration in verification of such information.

2. In case the vendor shall sell the said property, and a good and marketable title shall, by the means or with the assistance of the informant, as aforesaid be made thereto, the vendor will, out of the proceeds thereof, and within —— days next after the actual completion of such sale, pay, or cause to be paid, to the informant the sum of £—— for such information and assistance as he shall so render as aforesaid.

(*m*) Stamp 6*d*.

3. In case the said proceeds of sale shall not amount to £——, the vendor will, within the time aforesaid, pay to the informant a sum equal to [*one-tenth*] of the said proceeds, after payment of all the expenses of and attending such sale.

4. In the event of the sale of the said property the vendor will also pay to the informant all out-of-pocket expenses incurred by him.

5. If by means of the information and assistance afforded by the informant the vendor shall be able to deduce a good and marketable title to the said property (as to which the certificate of the vendor's counsel shall be conclusive) and without any default or neglect on the part of the informant a sale of the said property shall not be effected within six months from the date hereof, the vendor shall pay the informant the sum of £—— in satisfaction of all claims hereunder.

IN WITNESS, &c.

[*Signatures of both parties.*]

72.

AGREEMENT for Sharing Commission between Agent and Sub-agent (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*agent*] of &c. of the one part and [*sub-agent*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*sub-agent*] shall be entitled to one moiety of all commissions received by the said [*agent*] on the sale or sales of properties introduced by or through him to the said [*agent*] for sale such commission to be payable within —— days of the receipt of such commissions by the said [*agent*].

2. All communications relating to properties introduced by or through the said [*sub-agent*] to the said [*agent*] shall pass through the said [*sub-agent*] and no other person, unless with his sanction.

3. Any property introduced to the said [*agent*] by or through the said [*sub-agent*] shall not without the consent of the said [*sub-agent*] be handed over by him to any other person or persons, either for direct sale, or so that any indirect sale or disposal of them, or either of them, might be effected.

4. All plans, documents, and papers relating to any property sent by the said [*sub-agent*] to the said [*agent*] shall be returned to him on request.

5. No charge whatever shall be made by either party against the other of them or their clients respectively other than for commission which shall be considered the full remuneration for all correspondence, trouble, and expenses whatsoever, to be incurred in every case.

IN WITNESS, &c.

[*Signatures of both parties.*]

(*n*) Stamp 6*d*.

73.

COMMISSION for Procuring a Partner (*o*).

To [*agent*] of &c.

Sir,—In consideration of your endeavouring to procure for me a partner in the trade or business of a [grocer] now carried on by me at ——, in the county of ——, I hereby agree immediately upon the signing of the contract of partnership effected by you or through your introduction or instrumentality, to pay you a commission at the rate of £—— per cent. upon the amount of the premium to be paid or given to me for such partnership, such commission to cover all charges and expenses incurred by you.

DATED this —— day of ——, 19—.

[*Signature of principal.*]

COMPROMISES AND ARRANGEMENTS.

74.

AGREEMENT between Executor and Creditor of Testator for Settling a Claim (*p*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*executor*] of &c (hereinafter called the executor) of the one part and [*creditor*] of &c. (hereinafter called the creditor) of the other part.

WHEREAS [*testator*] formerly of &c. died on the —— day of —— having by his will dated the —— day of —— appointed the executor to be the executor thereof who duly proved the same on the —— day of —— in the Principal [or —— District] Probate Registry

AND WHEREAS by an order of the Chancery Division of the High Court of Justice made by the Honourable Mr. Justice —— on the —— day of —— in an action the short title whereof is *Re* [*testator*] deceased A *v.* B [*add reference to record*] it was ordered that the trusts of the will of the said [*testator*] be performed and carried into execution and the usual accounts and inquiries were directed for the purpose of administration

AND WHEREAS the creditor alleges that the said [*testator*] was at his death truly and justly indebted to the creditor in the sum of £[750]

(*o*) Stamp 6*d*.

(*p*) Stamp 6*d*. When a debt is not disputed, the mere acceptance of a smaller sum is not a satisfaction of the larger debt (*Cumber* v. *Wane* (1721), 1 Stra. 426; 1 Smith, L. C., 11th ed., 338) unless the creditor gets some additional advantage such as earlier payment than he is legally entitled to. But acceptance of a smaller sum may be a satisfaction of a disputed debt (*Wilkinson* v. *Byers* (1834), 1 Ad. & El. 106); see *Foakes* v. *Beer* (1884), 9 Ap. Ca. 605; *Hirachand Punamchand* v. *Temple*, [1911] 2 K. B. 330, and as to accord and satisfaction generally, Halsbury's Laws of England, title "Contract," vol. 7, pp. 441 *et seq.* As to an executor's power to compromise claims, see Trustee Act, 1925 (15 Geo. 5, c. 19), s. 15. If the estate is being administered by the Court, the approval of the Court to the compromise should be obtained by summons in the administration action.

for moneys lent [*or as the case may be*] and interest thereon and has claimed payment of such sum and interest from the executor

AND WHEREAS the executor disputes the existence and validity of the alleged debt and has required the creditor to prove the same

AND WHEREAS for the purpose of avoiding litigation and expense and of settling all disputes between the parties hereto and all claims of the creditor against the estate of the said [*testator*] and against the executor the parties hereto are desirous of entering into such compromise as is hereinafter set forth.

NOW IT IS HEREBY AGREED as follows:—

1. This agreement is conditional upon the sanction of the Court being obtained thereto in the said action and the executor shall use his best endeavours to obtain such sanction at the expense of the estate of the said [*testator*]. If such sanction shall not be obtained within [three] calendar months from the date hereof this agreement shall become void.

2. Within [one] month after the sanction of the Court to this agreement has been obtained the executor will out of the estate of the said [*testator*] in his hands pay to the creditor the sum of £[500].

3. The creditor shall accept the said sum of £[500] in full satisfaction of all claims whatsoever which he has or may have against the estate of the said [*testator*] or the executor whether such claims are hereinbefore recited or referred to or otherwise, and upon payment to him of the said sum of [£500] will execute and give in favour of and to the executor such releases receipts and discharges as the executor shall require.

4. Each party hereto shall bear his own costs and expenses of and incidental to the negotiation preparation perusal and execution of this agreement and of carrying the same into effect and of any release, receipt or discharge which the executor may require under clause 3 hereof.

IN WITNESS, &c.

[*Signatures of executor and creditor.*]

75.

AGREEMENT between Widow and Children of Intestate for Dividing His Estate (*q*).

AN AGREEMENT made the —— day of —— BETWEEN [*widow*] of &c. of the first part [*daughter*] of &c. of the second part and [*son*] of &c. of the third part.

WHEREAS [*intestate*] formerly of —— in the county of —— died on the —— day of —— intestate leaving the said [*widow*] his widow and the said [*daughter*] and [*son*] his only children and then infants him surviving

(*q*) Stamp 6*d*. As from the 31st of December, 1925, the descent of real estate to the heir is abolished (Administration of Estates Act, 1925 (15 Geo. 5, c. 23), s. 45, and also the widow's right of dower (*ibid.*)). The order of succession to real and personal estate on an intestacy is that prescribed by ss. 46, 47 of the Act. See also note (*f*), p. 129 *infra*.

AND WHEREAS the said [*intestate*] was at the date of his death seised or well entitled to the property following: (1) The freehold cottages specified in the First Schedule hereto; (2) The leasehold shop and premises specified in the Second Schedule hereto whereon the said [*intestate*] at his death carried on his business of a [*baker*]; (3) the capital and stock-in-trade employed by him in his said business, and (4) certain cash at the —— Bank and on the said leasehold premises

AND WHEREAS letters of administration of the personal estate of the said [*intestate*] were granted on the —— day of —— to the said [*widow*] by the —— District Registry of Probate

AND WHEREAS the said [*widow*] took possession of the capital stock-in-trade and cash and got in the book debts of the said business owing at the death of the said [*intestate*] and out of the said cash and the proceeds of the said book debts paid the debts and funeral and testamentary expenses of the said [*intestate*]

AND WHEREAS the said [*widow*] has since the said death been in possession or receipt of the rents and profits of the said freehold cottages and has carried on the said business upon the said leasehold premises where she has resided with the said [*daughter*] and [*son*] and has employed the capital and stock-in-trade and the balance of the said cash in the said business and has received the whole of the profits of the said business down to the date of these presents

AND WHEREAS the said [*widow*] has applied the whole of the rents and profits of the said freehold cottages and the profits of the said business in the maintenance support and otherwise for the benefit of herself and the said [*daughter*] and [*son*]

AND WHEREAS the said [*daughter*] attained the age of twenty-one years on the —— day of —— and the said [*son*] attained such age on the —— day of ——

AND WHEREAS notwithstanding that the said [*widow*] is unable to render any accounts of her dealings with the estate of the said [*intestate*] the said [*daughter*] and [*son*] after receiving a full explanation of their rights as regards such estate and independent advice from Mr. —— of etc. solicitor are satisfied that the said dealings have been beneficial to them respectively and that the estate of the said [*intestate*] should be divided between and amongst them in manner hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:—

1. The said [*widow*] shall forthwith convey or assent to the vesting of the said freehold cottages to herself and the said [*daughter*] upon trust for sale the proceeds of sale to be held upon trust for the said [*widow*] for life and from and after her death upon trust for the said [*daughter*] absolutely.

2. The said leasehold shop and premises shall belong absolutely for the residue of the term of years under which the same are held to the said [*son*] who shall also be entitled to the goodwill of the said business and the capital and stock-in-trade employed therein.

3. The said [*son*] shall pay to the said [*daughter*] a sum of £[200] of which £[50] shall be paid on the execution of this agreement and the balance thereof shall be paid by equal instalments of £[50] on the —— day of —— the —— day of —— and the —— day of ——. He shall also during the life of the said [*widow*] pay to the said [*daughter*] an annual sum of £[48] payable by equal payments of £[4] each on the first of each calendar month the first such payment to be on the —— day of —— next. All payments to be made hereunder shall be charged upon the interest of the said [*son*] in the said leasehold premises.

4. No apportionment shall be made either of the rents and profits of the said freehold or leasehold premises or of the profits and liabilities of the said business it being the intention of the parties that all receipts and outgoings in respect of any part of the estate of the said [*intestate*] shall as from the date hereof be received or borne by the person to whom such part is to belong under this agreement.

5. The said [*son*] shall indemnify the other parties hereto and each of them against all liability in respect of rent or otherwise under the said lease and against any trade or other liability or outgoing in connection with the said business.

6. The parties hereto shall respectively enter into and become bound by such deeds and documents, and shall do such acts as shall be necessary for carrying this agreement into effect. In particular there shall be executed: (1) A conveyance (or assent) upon trust for sale of the said freehold cottages by the said [*widow*] (*r*); (2) An assignment by the said [*widow*] of the said leasehold premises and the goodwill of the said business; and (3) A deed of covenant and charge by the said [*son*] in favour of the said [*daughter*] for securing the payments specified in clause 3 hereof; and (4) A release of the said [*widow*] by the said [*daughter*] and [*son*] in respect of her dealings with the said real and personal estate as aforesaid.

7. The parties hereto shall respectively accept the several benefits hereinbefore provided for them in full satisfaction of their respective distributive shares of the residuary estate of the said [*intestate*].

8. The costs of and incidental to this agreement, and of any deeds or documents to be executed pursuant to clause 6 hereof, shall be paid by the said [*son*] [*or* by the parties hereto in equal shares].

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of freeholds.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of leaseholds.*]

[*Signatures of all parties.*]

(*r*) If the intestate died after 1897 the freeholds will have vested in the widow as administratrix: see Administration of Estates Act, 1925 (15 Geo. 5, c. 23), s. 1; if before that date, in the son as heir.

76.

AGREEMENT for Sanctioning an Investment not Authorised by the Terms of a Trust (*s*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*wife*] wife of [*husband*] of &c. of the first part, the said [*husband*] of the second part [*daughter*] of &c. of the third part, and [*trustees*] of &c. (hereinafter called the trustees) of the fourth part.

WHEREAS [*testator*] formerly of &c. who died on the —— day of —— by his will dated the —— day of —— and duly proved in the —— Probate Registry on the —— day of —— by the trustees bequeathed to the trustees a legacy of £[15,000] upon trust to invest the same upon certain investments therein mentioned (not including the purchase of real estate) and to pay the income of such legacy and the investments representing the same to the said [*wife*] during her life for her separate use, and after her death to pay such income to any husband of the said [*wife*] who should survive her for his life if she should so appoint by will or codicil and subject thereto to hold the said legacy and investments and the income thereof in trust for all the children or any the child of the said [*wife*], who being sons or a son should attain the age of 21 years, or being daughters or a daughter should attain that age or previously marry, and if more than one equally between them. And he appointed the trustees to be the executors of that his will

AND WHEREAS the said [*wife*] has had one child only, namely, the said [*daughter*] who is now of the age of [25] years and upwards, and it is apprehended that no other children will by reason of her age be born to the said [*wife*]

AND WHEREAS the said [*wife*] has recently agreed to purchase a freehold house and premises known as —— for the sum of £[1500], and she, the said [*husband*] and the said [*daughter*] have requested the trustees to pay the said purchase-money and the costs of and incidental to the said purchase out of the capital of the said legacy

AND WHEREAS the effect of the said proposal and of this agreement has been fully explained to the said [*daughter*] by the said trustees, and she fully understands and approves the same as she hereby admits.

NOW THESE PRESENTS WITNESS that by way of family arrangement IT IS HEREBY AGREED AND DECLARED as follows :—

1. The trustees shall forthwith raise out of said legacy or of the investments now representing the same such amount as shall be sufficient to pay the said purchase-money and the costs of and incidental to the said purchase and of these presents, and shall apply the same in payment of the same purchase-money and costs.

2. The said freehold house and premises shall be conveyed to the trustees in fee simple who shall hold the same upon trust at the request

(*s*) Stamp 10*s*. This agreement should be under seal.

of the said [*husband*] and [*wife*] during their joint lives and at the request of the survivor of them during his or her life, and after the death of such survivor at their discretion to sell the same and to hold the proceeds of such sale upon the trusts and with and subject to the powers and provisions by and in the said will declared and contained concerning the said legacy with all usual powers at the like request and discretion to lease and manage the same while unsold (*t*).

3. If the said [*husband*] shall at any time hereafter pay to the trustees the whole or any part of the said purchase price and costs the trustees shall hold the whole of the said proceeds of sale or a part thereof proportionate to the sum so paid by the said [*husband*] in respect of purchase-money (but not of costs) in trust for the said [*husband*], but no part of the said purchase-money shall be paid to the said [*husband*] unless and until the whole of the sum so expended by the trustees out of the said legacy shall have been made good, and any surplus after payment of the sum so expended and the share (if any) of the said purchase-moneys to be held in trust for the said [*husband*] shall be applied as part of the said trust legacy.

4. The said [*wife*] shall not in exercise of any power in that behalf contained in the said will appoint to any husband of hers except the said [*husband*] any interest whatsoever in such part of the said legacy as shall be represented by the said freehold house and premises or shall be expended in payment of the costs hereinbefore mentioned or in the said freehold house and premises or the proceeds of sale thereof, and so far as may be necessary to give effect to this clause but not further or otherwise the said [*wife*] hereby releases the said legacy, house, premises and proceeds of sale from any and every such power.

5. The parties hereto of the first three parts hereby jointly and severally covenant with the trustees that they will release and keep indemnified the trustees and each of them from and against all actions claims demands and costs which may hereafter be made against them or him on the ground that the purchase of the said house and premises is a breach of trust or in respect of anything done or to be done by them or him in pursuance of these presents.

IN WITNESS, &c.

[*Signatures and seals of the first three parties.*]

77.

AGREEMENT between Mortgagor and Mortgagees to Settle an Action for Redemption (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*mortgagor*] of &c. (hereinafter called the mortgagor) of the one part and [*mortgagees*] of &c. (hereinafter called the mortgagees) of the other part.

(*t*) Compare, Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 32. As an alternative the property could be conveyed to the wife and a legal mortgage thereof given to the trustees.

(*a*) Stamp 6*d*.

WHEREAS by a mortgage dated the —— day of —— and made between [*parties*] certain hereditaments known as —— and therein particularly described were in consideration of £—— paid by the [*original mortgagee*] to the mortgagor conveyed to the said [*original mortgagee*] his heirs and assigns subject to a proviso for redemption thereof on payment by the mortgagor of £—— together with interest thereon at the rate of £[4] per cent. per annum at a date long since past

AND WHEREAS the mortgagor made default in or about the year [1910] in payment of the interest secured by the said mortgage and thereupon the said [*original mortgagee*] went into possession or receipt of the rents and profits of the said hereditaments and remained in such possession or receipt until his death hereinafter mentioned

AND WHEREAS the said [*original mortgagee*] died on the —— day of —— having by his will dated the —— day of —— appointed the mortgages executors thereof and the mortgagees duly proved the said will in the —— Probate Registry on the —— day of —— last

AND WHEREAS the mortgagees are now in possession or receipt of the rents and profits of the said hereditaments and allege that by virtue of the long continued possession or receipt of the rents and profits of the said hereditaments by the said [*original mortgagee*] he was at his death absolutely entitled to the same and that the right if any of the mortgagor to redeem the same has become barred by lapse of time (*b*)

AND WHEREAS the mortgagor claims that he is entitled to redeem the said hereditaments on payment of all principal moneys interest and costs due to the mortgagees under the said mortgage and further alleges that the said [*original mortgagee*] received or but for his wilful default might have received rents and profits of the same hereditaments largely in excess of the interest due from time to time upon the said mortgage

AND WHEREAS on the —— day of —— the mortgagor commenced an action in the Chancery Division of the High Court of Justice claiming redemption of the said hereditaments and an account on the footing of wilful default against the mortgagees and other relief

AND WHEREAS the said action the short title and reference to the record whereof is [A *v.* B, 1925, A No. ——] and the taking of any account which may be directed therein will occasion great trouble inconvenience and expense to the parties hereto which they are desirous of avoiding.

NOW IT IS HEREBY AGREED as follows :—

1. On or before the —— day of —— next the mortgagor shall pay to the mortgagees who shall accept the same in full satisfaction of all claims under the said mortgage for principal interest costs or otherwise [except the mortgagees' costs of the said action] the sum of £—— [and

(*b*) After the 31st of December, 1925, a mortgagee has in such circumstances the right to enlarge the mortgage term into a fee simple or vest it and the leasehold reversion thereon in himself : Law of Property Act, 1925 (15 Geo. 5, c. 20), ss. 88 (3), 89 (3).

shall also pay to the mortgagees' solicitor, Mr. —— of ——, the sum of £—— in or towards the mortgagees' costs of the said action].

2. Upon payment by the mortgagor of the sum[s] specified in clause 1 hereof the mortgagees will reconvey the mortgaged hereditaments to the mortgagor or as he shall direct such reconveyance to be prepared and engrossed by the mortgagor at his own expense but to be perused and executed by the mortgagees at their own expense (*c*).

3. In the event of the payments mentioned in clause 1 hereof being duly made on the —— day of —— the mortgagees will account and pay over to the mortgagor all rents and profits received by them in respect of the mortgaged hereditaments (less outgoings) for the period between the date of this agreement and the said —— day of —— such rents, profits, and outgoings being apportioned if necessary as from the date of this agreement [*or* Nothing herein contained shall disentitle the mortgagees to collect and retain for their own benefit all rents and profits of the said hereditaments payable or receivable up to the —— day of —— next they bearing all outgoings in respect of the said hereditaments up to the same day and any such rents, profits, and outgoings shall be apportioned if necessary on the —— day of —— next and the apportioned part of the said rents and profits less the apportioned part of the said outgoings shall if and when received by the mortgagor be paid by him to the mortgagees.]

4. The mortgagor will use his best endeavours to procure a stay of the said action until the said —— day of —— and the mortgagees will give all necessary consents for that purpose. If the provisions of clauses 1 and 2 hereof shall be duly carried out on or before the —— day of —— the mortgagor shall forthwith discontinue his said action.

5. In the event of either party refusing or neglecting to carry out any stipulation on his or their respective parts herein contained the other party shall be entitled to apply in the said action or otherwise as he or they may be advised to enforce this agreement and thereon the Court may make such order as shall seem fit and the costs of and incidental to such application and of obtaining and enforcing any order to be made thereon shall subject to the direction of the Court be borne and paid by the party in default.

[*Or* 5A. If either party shall make default in performance of any stipulation on his or their respective parts herein contained this agreement shall determine and either party hereto shall be remitted to his or their rights as existing at the date hereof.]

6. Each party shall bear his or their own costs of and relating to this agreement.

IN WITNESS, &c.

[*Signatures of all parties.*]

(*c*) See Law of Property Act 1925 (15 Geo. 5, c. 20), s. 115, as to the discharge of a mortgage by an endorsed receipt.

78.

AGREEMENT between Patentee and Person infringing Letters Patent, the Patentee Granting a Licence under the Patent (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*patentee*] of &c. (hereinafter called the patentee) of the one part and [*infringer*] of &c. (hereinafter called the infringer) of the other part.

WHEREAS the patentee is the registered owner of the letters patent No. —— of —— within the United Kingdom and the Isle of Man for the manufacture of [*specify nature of the patent*]

AND WHEREAS the patentee on the —— day of —— commenced an action against the infringer in the —— Division of the High Court of Justice (the short title and reference to the record whereof is P. *v.* I. 19—, P. No. ——) alleging that the infringer had manufactured and sold divers articles which constituted an infringment of the said letters patent and claiming an injunction damages and ancillary relief

AND WHEREAS it has been proposed that for the purpose of settling the said action the parties hereto should enter into and become bound by the stipulations hereinafter contained.

NOW IT IS HEREBY AGREED as follows :—

1. The infringer shall upon the execution of this agreement pay the sum of £—— to the patentee who shall accept the same in full satisfaction of all claims for damages by reason of such infringements as aforesaid.

2. The infringer shall also pay the costs of the patentee of the said action as between solicitor and client such costs in case of difference to be taxed by a taxing master.

3. The patentee shall grant and the infringer shall accept a licence for the manufacture and sale of the said articles under the said letters patent in accordance with the form set forth in the Schedule hereto and the infringer shall not at any time during the continuance of the said licence manufacture or sell the said articles save in accordance with the terms of such licence.

4. During the continuance of the said licence the infringer shall not take any proceedings whatsoever to procure the revocation of the said letters patent or to impugn the validity of the same.

5. Immediately upon payment of the sum mentioned in clause 1 hereof the said action shall be stayed by consent save so far as may be necessary to give effect to or enforce the terms of this agreement.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Form of licence* (*t*).]

[*Signatures of both parties.*]

(*d*) Stamp 6*d*.

(*e*) For forms of licences, see Encyclopædia of Forms, 2nd Edn. vol. 11, pp. 648 *et seq.*

79.

AGREEMENT for taking out Letters of Administration for the Benefit of Creditors, by one of the Next of Kin (*f*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*widow*] of &c. of the first part [*son*] of &c. of the second part and the several other persons whose names or firms are hereunto subscribed and seals affixed all of whom are creditors of [*deceased*] late of —— and are hereinafter called the creditors of the third part.

WHEREAS the said [*deceased*] has lately died intestate, leaving the said [*widow*] his lawful widow, and the said [*son*] and other children his only next of kin him surviving

AND WHEREAS it is doubtful whether the said [*deceased*] left sufficient estate or effects to satisfy his funeral expenses and just debts, and the said [*widow*] and [*son*] have declined to apply for and obtain letters of administration of his estate and effects, unless the creditors, for whose benefit such application would be made, would enter into and become bound by the stipulations on their part hereinafter contained.

NOW THESE PRESENTS WITNESS as follows:—

1. The said [*widow*] hereby agrees to renounce her right, as such widow as aforesaid, to apply for and obtain letters of administration to the estate of the said [*deceased*] in favour of the said [*son*] who shall forthwith apply for and obtain a grant thereof, provided the proper Court will grant him the same.

2. In the event of letters of administration being granted to him, the said [*son*] shall with all practicable dispatch after he shall have obtained such letters of administration, sell and absolutely dispose of all the estate and effects of the said [*deceased*] by public auction or by private contract for the best prices that can be obtained for the same and with all convenient speed collect and get in, and obtain and enforce payment of all such parts of the said estate as shall consist of debts and money due and owing to the said [*deceased*] at the time of his death.

3. Out of the proceeds of the said sale, and the said debts when received the said [*son*] as such administrator shall, in the first place, pay and discharge all proper costs, charges and expenses of the funeral of the said [*deceased*] and payable for or in respect of the said letters of administration (including the premium payable to any Assurance Society in respect of the Administration Bond), and of the administration of the said estate, and in any other matters whatever relative or incident thereto and in the next place, pay or satisfy all such debts or claims as by law are payable in priority to all other debts, and shall in the third place retain the sum of £—— as remuneration for his services as such administrator and shall

(*f*) Stamp 10*s*. If there is a minority or if a life interest arises under the intestacy there must be two administrators unless administration is granted to a trust corporation (Supreme Court of Judicature (Consolidation), Act, 1925 (15 & 16 Geo. 5, c. 49), s. 160).

in the fourth place pay the sum of £—— by way of gratuity to the said [*widow*] and shall out of the residue of the net proceeds of the said estate and effects pay the creditors and also all other the creditors of whose claims he shall have had due notice rateably and proportionably the amounts of their respective debts together with all such proper costs and expenses as shall have been incurred by any or either of them against the said [*deceased*] or in respect of his said estate and effects so far as such residue shall be sufficient for the purpose and shall hold the balance, if any, for the widow and next of kin of the said [*deceased*] in the shares to which they are entitled thereto under his intestacy.

4. In the distribution of any balance of the residue of the proceeds of the estate of the said [*deceased*] the said [*widow*] shall bring the said sum of £—— into hotchpot on account of her share of the said estate.

5. The creditors hereby agree with the said [*son*] that on his duly performing the office of administrator, according to law and the stipulations hereinbefore contained, all actions and proceedings commenced or taken by any or either of them, either against the said [*deceased*] or in respect of the administration of his estate and effects, shall be forthwith discontinued.

6. The creditors will, at the request of the said [*son*] but at the expense of the said estate, severally execute effectual releases to him from all liabilities, as such administrator, and of and from all actions and other proceedings against him for or in respect of the estate and effects of the said [*deceased*] and will keep him at all times indemnified against all claims and demands in respect of the same.

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

80.

AGREEMENT for Payment of Composition to Creditors by Promissory Notes of a Third Person (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*debtor*] of &c. (hereinafter called the debtor) of the first part [*guarantor*] of &c.

(*g*) Stamp 2*s.* 6*d.* for every £100 or fraction of £100 of the composition, where it exceeds £300 (Stamp Act, 1891 (54 & 55 Vict. c. 39) and 1*s.* for every £100 or fraction of £100 of the composition (Deeds of Arrangement Act, 1914 (4 & 5 Geo. 5, c. 47), s. 5 (2)). An agreement in this form should be under hand only; otherwise the guarantor cannot be sued on the promissory notes as the liability thereunder will merge in the covenant to pay contained in clause 1. The agreement must be registered under the Deeds of Arrangement Act, 1914, s. 1, within seven clear days after the first execution thereof by debtor or any creditor (*ibid.* s. 2); and though it remains unregistered with the consent of the parties, it is nevertheless void (*Re Lee, Ex parte Grunwaldt*, [1920] 2 K. B. 200. *In re* Bankruptcy Notice (No. 62 of 1924), 93 L. J. Ch. 497). The mode of effecting the registration is given, *ibid.* s. 5 (1). The validity of the deed is not affected by its execution by some of the creditors subsequent to the date of the deed (*Re Batten, Ex parte Milne* (1889), 22 Q. B. D. 685; *Maskelyne and Cooke* v. *Smith*, [1903] 1 K. B. 671); but will be avoided unless within 21 days of registration it is assented to by a majority in number and value of the creditors (*ibid.* s. 3). See Halsbury's Laws of England, title "Bankruptcy," vol. 2, pp. 329 *et seq.*, and the 1927 Supplement thereto, p. 210.

(hereinafter called the guarantor) of the second part and the several persons, firms and companies whose names are subscribed and affixed in the Schedule hereunder written (hereinafter called the creditors) of the third part.

WHEREAS the debtor is indebted to the creditors in the respective sums set opposite their respective names in the Schedule hereto

AND WHEREAS the guarantor is willing to pay to the creditors such composition as is hereinafter mentioned in respect of their said debts in manner hereinafter appearing.

NOW THESE PRESENTS WITNESS as follows :—

1. The debtor and the guarantor hereby jointly and severally agree with each of the creditors to pay to such creditor a composition of —— shillings in the pound on the debt of such creditor as set forth in the said Schedule by three equal instalments on the —— day of ——, the —— day of —— and the —— day of ——.

2. The guarantor will on or before the —— day of —— execute and deliver to each creditor promissory notes for the respective amounts of the said instalments payable on the aforesaid days.

3. If the guarantor shall duly execute and deliver the said promissory notes, the creditors shall not commence or prosecute any action or take any proceedings against the debtor or his property for or in respect of their respective debts and this agreement may be pleaded as a defence in any such action or proceeding (*h*).

4. Any of the creditors who holds security for his or her debt shall be entitled to retain the benefit of the said security notwithstanding that he or she may be entitled to receive or may have received any instalment of the said composition under this agreement PROVIDED that no such creditor shall receive more than 20 shillings in the pound on the amount of such debt.

[*Or* 4A. Any creditor who holds any security (including rights against any other person as surety) for his or her debt shall either forthwith proceed to realise the same of value such security and shall be entitled to receive a composition under this agreement only on the sum by which the amount so realised or the value so ascertained shall be less than the amount of his or her debt. PROVIDED that any creditor valuing his or her security shall at the request of the guarantor transfer the said security to the guarantor on payment of the amount at which the same has been so valued and any creditor so valuing his or her security shall notify the same in writing to the guarantor and shall not be entitled without the consent of the guarantor to alter the amount of such valuation.]

5. The liability of the guarantor hereunder shall not be affected by any indulgence hereafter granted by any creditor to the debtor.

6. If and when all instalments under this agreement shall have been duly paid and satisfied the debtor and his property shall stand released and discharged from all claims and demands by the creditors in respect

(*h*) Compare *Allen* v. *Royal Bank of Canada* (1925), 95 L. J. P. C. 17.

of their several debts. If default shall be made in payment of any instalment under this agreement any creditor [in respect of whom such default has been made] shall be entitled to enforce payment of his or her said debt in the like manner and to the like extent as if he or she had not become bound by this agreement but shall give credit for any instalment previously received pursuant to the provisions hereof and upon any such creditor taking steps so to enforce payment against the debtor all further liability hereunder of the guarantor to all the creditors shall cease and determine and the guarantor shall be entitled to rank as a creditor against the debtor's estate in respect of all sums paid by him under this agreement *pari passu* with the creditors to whom the same were paid.

IN WITNESS, &c.

[*Signatures of debtor and guarantor.*]

THE SCHEDULE ABOVE REFERRED TO.

[*Signatures of creditors amounts of their debts.*]

81.

AGREEMENT for Payment of Immediate Composition to Creditors —Trade Creditors being Paid a larger Dividend and Assignment of Book Debts to secure Guarantor (*i*).

AN AGREEMENT made the —— day of —— BETWEEN [*debtor*] of &c. (hereinafter called the debtor) of the first part [*guarantor*] of &c. (hereinafter called the guarantor) of the second part the several persons firms and companies whose names and seals are subscribed and affixed in the First Schedule hereunder written (hereinafter called the trade creditors) of the third part and the several persons whose names and seals are subscribed and affixed in the Second Schedule hereunder written (hereinafter called the private creditors) of the fourth part.

WHEREAS the debtor is carrying on business as a [grocer] at —— in the city of —— and in the course of such business has become indebted to the trade creditors in the sums set opposite their respective names in the First Schedule hereto

AND WHEREAS the debtor is indebted to the private creditors in the sums set opposite their respective names in the Second Schedule hereto in respect of moneys advanced from time to time by them respectively

AND WHEREAS the debtor is unable to pay the whole of the debts of the trade creditors and the private creditors in full

AND WHEREAS the guarantor is willing to pay to the trade creditors and the private creditors respectively such composition in respect of their said debts as is hereinafter mentioned upon the terms hereinafter contained

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(*i*) Stamp. See note (*g*), p. 130, *supra*.

NOW THESE PRESENTS WITNESS as follows :—

1. The debtor and the guarantor hereby jointly and severally covenant with each of the trade creditors to pay to such creditor a composition of [15] shillings in the pound on the debt of such creditor as set forth in the First Schedule hereto on or before the —— day of ——.

2. The debtor and the guarantor hereby jointly and severally covenant with each of the private creditors to pay to such creditor a composition of [10] shillings in the pound on the debt of such creditor as set forth in the Second Schedule hereto by two instalments of [5] shillings each, the first to be paid on the —— day of —— and the second to be paid on the —— day of ——.

3. Upon payment to the trade creditors on or before the —— day of —— of the composition mentioned in clause 1 hereof the trade creditors will respectively release and discharge the debtor from all claims and demands in respect of their respective debts and upon payment to the private creditors of the final instalment of the said composition under clause 2 hereof the private creditors will release and discharge the debtor from all claims and demands in respect of their respective debts.

4. If default shall be made in payment to any trade creditor or private creditor of the sums hereinbefore agreed to be paid on the day or days hereinbefore appointed for the purpose such creditor may by notice in writing addressed to the guarantor or in the event of his death his legal personal representatives require payment of the same within [7] days after the date of such notice and if payment shall not be made in accordance with the terms of such notice such creditor shall be remitted to his rights and remedies against the debtor as if these presents had never been executed by him but so that no payment hereunder by the debtor or any trade creditor or private creditor made prior to the date of such notice shall be deemed to be a fraudulent preference and the provisions hereinafter contained relating to the assignment of book debts shall not be rendered invalid on any ground whatsoever and these presents shall remain full of force and effect as regards any creditor who shall not have given such notice as aforesaid.

5. Unless and until such notice shall have been given as aforesaid after default in payment of any sum or sums payable hereunder no creditor shall be entitled to take any proceedings against the debtor to enforce payment of his or her debt, but nothing herein contained shall preclude any creditor holding security for his or her debt or having rights or remedies against any person or persons as surety or sureties for the debtor (other than the guarantor) from realising such security or enforcing such rights or remedies to such extent and in such manner as he or she is or may be now entitled to do. PROVIDED that no creditor shall be entitled to receive from all sources more than 20 shillings in the pound.

6. By way of security for the repayment to the guarantor or his legal personal representatives of all sums which may be paid by him or them to the trade creditors or the private creditors, the debtor hereby covenants with the guarantor that he will assign to the guarantor or in the event of his death to his legal personal representatives the book debts specified

in the third Schedule hereto at his or their written request and until such assignment will hold the same in trust for him or them with full power nevertheless for the debtor to collect the same as the agent of the guarantor or his personal representatives, he duly accounting for all sums received by him in respect thereof.

7. The debtor shall be entitled to pay in full or make such arrangement as he may be able with any creditor whose debt has priority over any of the said debts specified in the First or Second Schedules hereto.

8. Any difference which shall arise touching these presents or the construction thereof or anything done in the execution thereof shall be submitted by the parties to such difference to the arbitration of —— of &c. or him failing of —— of &c. and such arbitration shall be conducted and in all respects conform to the provisions of the Arbitration Act, 1889.

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Signatures, seals, addresses and debts of trade creditors.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Signatures, seals, addresses and debts of private creditors.*]

THE THIRD SCHEDULE ABOVE REFERRED TO.

[*Book Debts.*]

[*Signatures and seals of debtor and guarantor.*]

82.

AGREEMENT for Composition with Creditors when Sureties are appointed Inspectors (*j*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*debtor*] of &c. (hereinafter called the debtor) of the first part [*inspectors*] of &c. (hereinafter called the inspectors) of the second part and the several other persons, being creditors, of the debtor who by themselves or by persons duly authorised on their behalf, shall respectively subscribe their names and affix their seals to these presents (*k*) (hereinafter called the creditors) of the third part.

(*j*) Stamp, see p. 130, note (*g*), *ante*.

(*k*) The actual execution of the deed by a creditor is not essential to bind him, as his assent may be implied (*Whitmore* v. *Turquand* (1861), 3 De G. F. & J. 107; *Re Brindley, Ex p. Taylor, Sons & Co.*, [1906] 1 K. B. 377; *re Sunderland*, [1911] 2 K. B. 658, 663). A majority of creditors cannot bind a minority to a scheme for liquidation of the debtor's affairs outside the Bankruptcy Act, as distinct from a composition, or scheme or arrangement, approved by a statutory majority under s. 16 of the Bankruptcy Act, 1914; but the composition deed, if *bonâ fide*, may become binding if three months elapse between its execution and the petition (*ibid.* ss. 4 (1) (*c*), 37 (1) 43), though a dissentient creditor retains the right of being paid in full (*Casey* v. *Barrett* (1879), 4 C. P. D. 379), and if not paid in full and his claim is sufficient to support a bankruptcy petition, he can defeat the arrangement, unless notice has been served on him under

WHEREAS the debtor has for come time past carried on the trade or business of a [grocer] at —— and in the course thereof has become and is now justly indebted to the creditors in the several sums of money set opposite to their respective names or firms in the first column in the Schedule hereunder written and, being unable to pay or satisfy the same in full, he on the —— day of —— instant, convened a meeting of all his creditors, at —— aforesaid, at which he produced a statement of his affairs and submitted himself to be examined thereon

AND WHEREAS it appeared to the satisfaction of his creditors then present, that his estate would produce only —— shillings in the pound on the said debts if sold immediately but would be likely to realise —— shillings in the pound if sold in the ordinary course of business, it was [unanimously] resolved by [a majority in value of such] creditors then present that the debtor should be at liberty to work out his said estate, in the ordinary course of his business, under the inspection of the said [*inspectors*] on their entering into the agreement hereinafter contained.

NOW THESE PRESENTS HEREBY WITNESS as follows :—

1. The debtor shall continue to carry on his said business to the best of his ability and shall devote his whole time to the same, but in carrying on such business shall submit to the supervision of the inspectors and follow all directions from time to time given by them.

2. The debtor shall at all times during the continuance of this agreement keep duly posted up full and accurate books of account relating to his said business and produce such books to the inspectors and furnish all such vouchers and information to them as they shall require.

3. Out of the moneys coming to his hands in the course of the said business the debtor shall pay all usual business outgoings including rent, rates, taxes and wages incurred in connection therewith and shall pay the balance (if any) to the inspectors or as they shall direct.

4. The inspectors may authorise the debtor to retain so long as they think fit any moneys in his hands for the purpose of carrying on or developing the said business or to raise such moneys by mortgage charge or pledge of the said business or any part of the assets thereof for the like purposes.

5. The inspectors may at any time if they consider that the continuance of the said business will result in loss call upon the debtor to sell or realise the same, and the goodwill thereof and the assets employed therein and the debtor shall thereupon sell or realise the same at such time and in such manner as the inspectors think fit.

6. Subject as aforesaid the inspectors shall out of all moneys received by them pay and discharge all costs of and incidental to this agreement and of all instalments, acts and things to be executed or done in pursuance hereof and out of the balance shall pay the debtor such sum not exceeding

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s. 24 (1) of the Deeds of Arrangement Act, 1914 (as to which see Deeds of Arrangement Rules, 1915, r. 27, and form of notice (No. 14) given in appendix thereto), in which case he cannot, after one month from the date of such notice, unless the deed becomes void (*ibid.* s. 24 (2)), rely on the arrangement as an act of bankruptcy.

£[3] a week as they may think fit for his maintenance and shall divide the balance rateably between the creditors according to their respective debts and shall pay the ultimate surplus, if any, to the debtor.

7. The inspectors may pay in full or enter into any arrangement with any creditor of the debtor whose debt has priority over any debt of any creditor assenting to or executing these presents [or with any creditor whose debt is less than £—— and who does not assent to these presents and may give any such creditor a specific charge on the said business or the assets or any part thereof (*f*)].

8. During the continuance of this agreement the creditors respectively shall not take any proceedings of any kind whatsoever against the debtor, his estate or effects to obtain payment of their respective debts, and these presents may be pleaded as an effectual bar to any such proceedings. PROVIDED ALWAYS that nothing herein contained shall extend or be construed so as to invalidate or prejudice or in any manner affect any claim, demand, right or remedy whatsoever which, the creditors, or any or either of them, now have or hath, or shall at any time hereafter become entitled to, upon, from or against any person or persons other than the said debtor, for the payment or satisfaction of the said several debts, or any or either of them, or any part or parts thereof respectively, as his surety or sureties or otherwise.

9. The debtor and the inspectors hereby respectively guarantee to the creditors respectively the payment to them of a composition of —— shillings in the pound on their respective debts on or before the —— day of —— next. Upon payment of such composition the creditors will respectively execute such sufficient releases in respect of their said debts to the debtor and the inspectors as they shall reasonably require.

10. In any of the following events, namely:—(1) If the debtor shall be adjudicated bankrupt, (2) if the debtor shall enter into any arrangement with his creditors other than these presents, (3) if any distress or execution shall be levied against the goods of the debtor or the said business and shall not be paid out within 3 days thereafter, or (4) if the debtor or the inspectors shall make default in performance of any term herein contained this agreement shall become void and thereupon the creditors shall have and enjoy all such rights and remedies against the debtor and his property for recovering their respective debts or so much thereof as shall then remain unpaid as they would respectively have had if these presents had not been executed and all further liability of the inspectors under clause 9 hereof shall thereupon absolutely cease and determine, but the inspectors shall be entitled to rank as creditors against the debtor's estate in respect of all sums actually provided by them in or towards payment of any composition hereunder.

IN WITNESS, &c.

(*l*) In *Re Brindley, Ex p. Taylor, Sons & Co.*, [1906] 1 K. B. 377, it was suggested by COZENS-HARDY, L.J., at p. 388, that the power to pay dissenting creditors in full was improper and might invalidate the scheme. The words in square brackets should therefore be used only in cases where no difficulty on this ground is likely to be raised by any creditor.

THE SCHEDULE ABOVE REFERRED TO.

[*Signatures, addresses, seals and debts of creditors.*]

[*Signatures and seals of debtor and inspectors.*]

83.

AGREEMENT to Accept Composition (*m*).

WE, the undersigned creditors of [*debtor*], of &c. hereby, on behalf of ourselves and our respective firms, severally agree each with the others of us and with the said [*debtor*] that on payment to use respectively of a composition of —— shillings in the pound on the amount of our respective debts and claims against him as stated below, within —— days [*or* weeks] from the dates of our respective signatures we will respectively accept the same in full satisfaction of our said several debts and claims, and give him, at his expense, a release or other discharge from the same several debts and claims accordingly.

DATED the —— day of ——, 19—.

Dates.	Creditors' Signatures.	Addresses.	Amount of Debts.

84.

AGREEMENT to Pay a Debt contracted before Bankruptcy (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*debtor*] of &c. (hereinafter called the debtor) of the one part and [*creditor*] of &c. (hereinafter called the creditor) of the other part.

(*m*) Stamp 6*d.*, and if registered as a deed of arrangement 1*s.* for every hundred pounds or fraction of a hundred pounds of the amount of the composition payable (Deeds of Arrangement Act, 1914 (4 & 5 Geo. 5, c. 47), s. 5 (2)).

(*n*) Stamp 6*d.* S. 28 of the Bankruptcy Act, 1914 "releases" the bankrupt from all debts provable in the bankruptcy, and therefore a subsequent promise to pay is *nudum pactum* (*Jones* v. *Phelps* (1871), 20 W. R. 92; *Heather and Son* v. *Webb* (1876), 2 C. P. D. 1) unless made under a foreign law which gives legal validity to such new promise (*re Bonacina*, [1912] 2 Ch. 394); but if there is new and valuable consideration, the promise to pay the old debt will be good (*Jakeman* v. *Cook* (1878), 4 Ex. D. 26); *re Aylmer* (1893), 70 L. T. 244), though, in any case, there must be nothing in the circumstances of the making of the promise inconsistent with good faith to the other creditors or contrary to the policy of the bankruptcy law (*Re Andrews, Ex p. Barrow* (1881), 18 Ch. D. 464; *Wild* v. *Tucker*, [1914] 3 K. B. 36).

WHEREAS on the —— day of ——, the debtor who was then carrying on the business of a [draper] at ——, in the county of ——, contracted a debt of £—— for goods sold and delivered to him by the creditor

AND WHEREAS, on the —— day of ——, the debtor being then indebted to the creditor in the said sum of £——, was adjudicated a bankrupt [*or*, filed a petition under the Bankruptcy Act, 1914, and subsequently compounded with his creditors under the provisions thereof], and under such bankruptcy [*or*, composition arrangement] his creditors having been paid a dividend of —— shillings in the pound on their debts, he has been duly discharged from all liability for the residue of the said debts

AND WHEREAS during the continuance of the said bankruptcy [*or*, liquidation] the creditor supplied the debtor with the means of maintaining himself and his family, and has lately supplied goods to the debtor on credit for the purpose of enabling the debtor to set up in business upon the terms hereinafter contained.

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of the goods so supplied as aforesaid, the debtor hereby agrees that he will not only pay for the same at the list prices already agreed upon between the parties hereto, but will also pay to the creditor within —— months from the date hereof the sum of £——, being the residue of the creditor's said debt of £—— after allowing for the dividend received by the creditor in the said bankruptcy [*or* composition arrangement] together with interest thereon at the rate of £—— per cent. per annum from the date of this agreement, and if the said sum shall not be paid within such —— months as aforesaid will pay the creditor interest on the same or so much thereof as shall not be so paid by equal half-yearly payments on the —— day of —— and the —— day of —— in every year.

2. The creditor hereby agrees with the debtor not to take any steps to obtain payment for the said goods or of the said debt until the —— day of —— next.

IN WITNESS, &c.

[*Signatures of both parties.*]

EASEMENTS.

85.

AGREEMENT for Making a Road and Granting Easements thereover (*o*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*servient owner*] of &c. (hereinafter called the servient owner) of the one part and [*dominant owner*] of &c. (hereinafter called the dominant owner) of the other part.

(*o*) Stamp 10*s*. For another form of agreement for making a road, see p. 60 *supra*.

WHEREAS the dominant owner is seised of the hereditaments coloured [pink] on the plan numbered 1 hereto annexed for an estate of unincumbered fee simple in possession

AND WHEREAS the servient owner is seised of the hereditaments coloured [green and brown] on the said plan for an estate of unincumbered fee simple in possession

AND WHEREAS the said hereditaments coloured [brown] on the said plan are subject to a lease thereof dated the —— day of —— and made between [*parties*]

AND WHEREAS the dominant owner, his servants, workmen, and licensees, have for some years past frequently passed and repassed along the road or way marked with dotted lines between the points A and B on the same plan.

NOW IT IS HEREBY AGREED as follows :—

1. The dominant owner shall with all convenient speed and at his own cost lay out and construct on the land coloured [green] on the said plan a good and sufficient road between the points C and D on the said plan, such road to be constructed according to the sectional plan numbered 2 hereto annexed and to the satisfaction in all respects of the surveyor for the time being of the servient owner.

2. The dominant owner will forthwith endeavour at his own cost to procure from the person or persons in whom the said lease is now vested (hereinafter called the lessee) the right to construct a good and sufficient road to the satisfaction of such surveyor as aforesaid between the points D and E over the land coloured [brown] on the said plan No. 1 and a right of way as hereinafter mentioned over such road when constructed in favour of the servient owner and the dominant owner respectively.

3. So soon as the rights specified in clause 2 hereof shall have been acquired the dominant owner will with all convenient speed and at his own cost lay out and construct a good and sufficient road between the points D and E on the said plan No. 1, such road to be a continuation of the road to be constructed under clause 1 hereof, and to be constructed in accordance with the sectional plan No. 3 hereto annexed, and in all respects to the satisfaction of the said surveyor.

4. The dominant owner shall cause to be laid in the said road in course of making the same from the points C to E on the said plan No. 1 proper and effective gullies and drains for carrying off surface water from the said road, and shall provide an effective outfall for such surface water, all such work to be done to the satisfaction of the said surveyor.

5. The said road between the points C and E and all gullies and drains therein and thereunder shall at all times hereafter be maintained in good condition to the satisfaction of the said surveyor by the dominant owner at his own cost.

6. The servient owner will allow the dominant owner such reasonable access to the land coloured [green] on the said plan No. 1 and any adjoining

land of the servient owner as shall be required for the purpose of constructing the said road thereon, but the dominant owner shall in the exercise of such right do as little damage as may be, and shall within [one] month after the completion of the said road make good all such damage to the satisfaction of the said surveyor.

7. Within one month after the completion of the said road between the points C and E on the said plan No. 1 to the satisfaction of the said surveyor the servient owner will grant to the dominant owner such right of way thereover as is hereinafter mentioned, to the intent that the same may be enjoyed in common with the servient owner his successors in title, the owners and occupiers for the time being of the land coloured [green] on the said plan and all persons authorised by him and them respectively subject nevertheless as to such part of the said land as lies between the said points D and E to the said lease and the rights of the lessee thereunder (*p*).

8. The right of way to be granted under clause 2 hereof shall be a right to be enjoyed and exercised by the servient owner and dominant owner respectively and their respective successors in title the owners and occupiers for the time being of the land coloured [green] and [pink] on the said plan No. 1, and all persons authorised by them respectively. The right of way to be granted under clause 7 hereof shall be a right to be enjoyed and exercised by the dominant owner and his successors in title the owners and occupiers for the time being of the land coloured [pink] on the said plan and all persons authorised by him or them.

9. The rights of way mentioned in clause 8 hereof shall be rights of way at all times with or without horses or other animals, carts, carriages, motors, and vehicles of every description to pass and repass over the said road in the case of the servient owner and those claiming under him between the points D and E on the said plan No. 1, and in the case of the dominant owner and those claiming under him between the points C and E on the same plan.

10. After the completion of the said road the dominant owner and persons claiming under him shall not use the said road between the points A and B on the said plan for any purpose and the dominant owner will release to the servient owner on his request all rights (if any) to which the dominant owner may be entitled in respect of such road.

11. The costs charges and expenses of all parties of and incidental to this agreement and of any negotiation relating thereto and of or incidental to the preparation perusal and execution of any instruments which may be executed or any act which may be done in pursuance hereof including the deduction and investigation of the title of the servient owner and of any other person which may be required for carrying this agreement into effect and all fees and costs payable to the said surveyor for any work done or services rendered by him in connection with this agreement

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(*p*) The dominant owner can insist upon notice of the grant being indorsed on or annexed to one of the title deeds retained by the servient owner: Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 200.

[including a fee of £[20] now payable to him by the servient owner] shall be paid by the dominant owner.

12. If the said road shall not be constructed on or before the —— day of —— next the servient owner may by notice in writing to be sent by registered post to the dominant owner at his last known address determine this agreement and thereupon the rights of all parties hereunto shall cease but such determination shall not affect any liability of the dominant owner under clause 11 hereof.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

86.

AGREEMENT for Preventing the Acquisition of Right to Light under Prescriptive Title (*q*).

AN AGREEMENT made the —— day of —— BETWEEN [*first adjoining owner*] of &c. (hereinafter called the servient owner) of the one part and [*second adjoining owner*] of &c. (hereinafter called the dominant owner) of the other part.

WHEREAS the servient owner is, or claims to be, seised in fee simple in possession of the messuage, yard, garden and premises known as —— and delineated and coloured [red] on the plan hereto annexed

AND WHEREAS the dominant owner is, or claims to be, seised in fee simple in possession of [*or* is entitled under or by virtue of a lease dated the —— day of —— and made between [*parties*] to] certain premises adjoining the first mentioned hereditaments on the [north] side thereof and known as ——, and delineated and coloured [blue] on the plan hereto annexed [for the unexpired residue of a term of [99] years from the —— day of ——]

AND WHEREAS the dominant owner has recently erected a manufactory or building upon the said hereditaments coloured [blue] on the said plan having [12] windows in the [south] side thereof overlooking the servient owner's said hereditaments

AND WHEREAS the servient owner has threatened to erect upon his said hereditaments a hoarding or screen so as to obstruct the light coming to the said windows

AND WHEREAS for the purpose of avoiding disputes the parties hereto are desirous of entering into and becoming bound by the stipulations and acknowledgment hereinafter contained.

(*q*) Stamp 6*d*. This agreement is designed to prevent the acquisition of a prescriptive right to light under the Prescription Act, 1832 (2 & 3 Will. 4, c. 71), s. 3. See hereon *Bewley* v. *Atkinson* (1879), 13 Ch. D. 283, and the Encyclopædia of Forms, 2nd Ed. vol. 6, pp. 318, 350. See *Mallam* v. *Rose*, [1915] 2 Ch. 222; *Hortons' Estate, Ltd.* v. *Beattie, Ltd.*, [1927] 1 Ch. 75; *Foster* v. *Lyons & Co.*, [1927] 1 Ch. 219; and generally Halsbury's Laws of England, title "Easements," vol. 2, pp. 305, *et seq.*

NOW IT IS HEREBY AGREED as follows :—

1. The dominant owner hereby acknowledges that the access of light and air to or for the said windows on the [south] side of the said manufactory or building over the hereditaments of the servient owner is had and enjoyed by the dominant owner by consent of the servient owner and the right to the enjoyment of such light and air shall not be deemed absolute and indefeasible, notwithstanding that the same may hereafter have been enjoyed for twenty years without interruption and that no continuance of such enjoyment shall operate to confer any right, privilege or easement thereto upon the dominant owner his heirs or assigns [*or* any person claiming or to claim through or under him].

2. So long as such enjoyment as aforesaid shall be had by the dominant owner he will pay to the servient owner one shilling in every year when demanded and will not grant [assign] or lease [*or* under-lease] except for a period not exceeding twelve calendar months the hereditaments coloured [blue] on the said plan or any part thereof without first giving notice thereof to the servient owner his heirs or assigns.

3. The servient owner will not so long as the dominant owner or those claiming or to claim under him shall observe the stipulations on their part hereinbefore contained interrupt the enjoyment or obstruct the access of light and air to the said windows or any of them except after [six] calendar months' notice to the persons in occupation of the said manufactory or building. After the expiration of such notice the servient owner shall have as full power and right to obstruct such access and interrupt such enjoyment as he had prior to the execution of these presents.

4. All notices to be given under these presents by either party shall be duly served if left at the said hereditaments coloured [red] or [blue] on the said plan as the case may be.

5. [Nothing herein contained shall operate to confer any benefit on or affect or prejudice any right of the lessors of the dominant owner or persons claiming or to claim under such lessors.]

IN WITNESS, &c.

[*Signatures of both parties.*]

87.

AGREEMENT for Preserving Rights to Light of Adjoining Owners where such Rights are Doubtful (*r*).

AN AGREEMENT made the —— day of —— BETWEEN [*one adjoining owner*] of &c. (hereinafter called the dominant owner) of the one part and [*other adjoining owner*] of &c. (hereinafter called the servient owner) of the other part.

WHEREAS the dominant owner is or claims to be seised in fee simple of the messuage or building known as —— of which messuage certain

(*r*) Stamp 6*d*.

windows in the —— wall thereof overlook the plot of ground hereinafter mentioned

AND WHEREAS the servient owner is or claims to be seised in fee simple of a plot of ground next adjoining the said messuage or building on the —— side thereof which plot of land was conveyed to the servient owner by a deed dated the —— day of —— and made between [*parties*], and is therein more particularly described

AND WHEREAS questions have arisen as to the right of the dominant owner to the access of light and air to the windows of his said messuage or building, and the servient owner has threatened to obstruct the access of such light and air by erecting a hoarding on his said plot of land

AND WHEREAS for their mutual convenience and to avoid expense and immediate litigation the parties hereto are desirous of entering into and becoming bound by these presents.

NOW THESE PRESENTS WITNESS as follows :—

1. The dominant owner with intent so far as he lawfully may to bind himself and all persons claiming or to claim under him as owners or occupiers of the said messuage or building hereby acknowledges that during the continuance of this agreement the access of light and air to his said messuage or building through or by means of the windows aforesaid shall be deemed to be enjoyed by him and such owners and occupiers as aforesaid by the permission of the servient owner so that no easement or right in respect thereof shall be acquired by the dominant owner or such owners or occupiers as aforesaid by reason merely of enjoyment during the continuance of this agreement, but the acknowledgement herein contained shall not prejudice or affect any right or easement already acquired in respect of the said messuage or building by prescription implied, grant or otherwise, and such easement or right (if any) during the continuance of this agreement shall not be deemed to have been waived or abandoned but shall be merely suspended.

2. During the continuance of this agreement the servient owner shall not obstruct or interrupt the access of light and air to the said messuage or building.

3. This agreement shall continue until determined by either party or persons claiming under him owners of the said hereditaments respectively, giving to the other party or persons claiming under him owners of said adjoining hereditaments respectively [three] calendar months' notice in writing determining the same.

[(*s*) 4. Any notice to be given under these presents may in the case of notice given to the dominant owner and persons claiming under him be duly given by leaving the same on the said messuage addressed to the freeholder or freeholders of the said messuage, and in the case of notice given to the said servient owner and persons claiming under him by sending the same by registered post to his or their last known address.]

5. So long as this agreement shall continue neither party shall sell,

(*s*) This clause can be omitted in reliance on the L.P.A., 1925, s. 196.

mortgage, or demise his said hereditaments without giving to the purchaser, mortgagee, or lessee, written notice of this agreement [*or* Notice of this agreement shall be endorsed on the title deeds of the respective hereditaments of the parties hereto (*t*)].

IN WITNESS, &c.

[*Signatures of both parties.*]

88.

AGREEMENT for Sale of Land for Laying Pipes with Temporary Easements (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase for the sum of [£100,] (1) the fee simple in possession free from incumbrances of and in the hereditaments situate at —— and delineated on the plan hereto annexed and therein coloured [red] and [blue] and (2) full right and liberty for the purchaser, his servants, agents and workmen during a period of [2] years from the date of this agreement to pass and repass with or without horses, carriages, carts, waggons and vehicles of every description over and along the surface of the land coloured [brown] on the said plan between the points A and B marked thereon for the purpose of approaching or leaving the works to be constructed on the lands coloured [red] and [blue] as hereinafter mentioned and to deposit on the surface of the said land coloured [brown] such soil, earth, plant and machinery as may be necessary for the execution of the said works.

2. The land and rights specified in clause 1 hereof are purchased by the purchaser for the purpose of laying in and along the land coloured [red] and [blue] a water-pipe or water-pipes with proper valve houses and inspection chambers to be constructed at the points marked [V] on the said plan. The purchaser shall within the period of [2] years from the date of this agreement complete the work of laying such pipe or pipes and constructing such valve houses and inspection chambers. Such pipe or pipes shall be placed at least two feet below the surface of the said land.

3. During the period of [2] years from the date of this agreement the vendor, his heirs and assigns and all persons authorised by him or them shall have full liberty to pass and repass with or without horses and vehicles of every description and drive animals across the said lands coloured [red] and [brown] at the points marked " crossing " on the said plan.

4. The purchaser shall at his own cost forthwith erect and during the said period of [2] years maintain sufficient fences upon and along

(*t*) Assignees without notice would not be bound by the agreement (*Tulk* v. *Moxhay* (1848), 2 Ph. 774) and if they take with notice they can at any time repudiate it (see Encyclopædia of Forms, 2nd Ed. vol. 6, p. 350).

(*a*) Stamp. *Ad valorem* on the purchase consideration.

the lines coloured [yellow] on the said plan and also provide and during the same period maintain suitable gates for the purpose of enabling the vendor to exercise such rights of way as are specified in clause 3 hereof such fences and gates to be of such nature and description as the vendor shall approve.

5. Within [one] calendar month after the expiration of the said period of [2] years, the purchaser shall as regards the said land coloured [red] and [brown] on the said plan remove therefrom all bricks, stone, soil, earth or rubbish and all plant, machinery and works which shall have been placed, deposited or constructed on the surface thereof and shall restore and level the surface thereof and render the same arable and in a fit state for cultivation spreading evenly thereon all surface mould and earth and shall remove the fences and gates mentioned in clause 4 hereof except the fences surrounding the land coloured [blue] on the said plan and restore all land on which such fences shall have been erected to its original condition.

6. From and after the expiration of the said period of [2] years the vendor shall have full right and liberty for his own benefit to use and enjoy for all purposes (including the construction thereon of roads and buildings) the surface of the land coloured [red] on the said plan PROVIDED ALWAYS that any road or building to be constructed by the vendor pursuant to the right reserved by this clause shall be subject to the purchaser's approval and the vendor shall not do anything on the said land coloured [red] which may substantially interfere with or prejudice the right of the purchaser so far as may be necessary for the purpose of inspecting repairing and renewing the said pipe or pipes to enter at all reasonable times on the said land coloured [red] and open up the same, doing as little damage as may be to the surface thereof, and making good all such damage as soon as such inspection or repair shall have been completed. The vendor shall from and after the expiration of the said period of [2] years pay to the purchaser an annual sum of one shilling by way of rent for the rights and liberties mentioned in this clause, the first such payment to be made at the expiration of [3] years after the date of these presents.

7. The title to the hereditaments hereinbefore mentioned all of which are freehold shall begin with a conveyance on sale thereof dated the —— day of —— (*b*).

8. [*Insert clauses relating to requisitions, identity, completion, &c. as required* (*c*).]

9. At any time before the —— day of —— the purchaser may by notice in writing to be sent by registered post to the vendor at his last known address rescind this agreement save as regards the purchaser's obligation to pay the costs, charges and expenses mentioned in clause 10 hereof and to make good any damage which may have been done by

(*b*) For other provisions as to the commencement of title see Sale of Land, Form 193, p. 351, *infra*.

(*c*) For these clauses see Sale of Land, pp. 353 *et seq.*, *infra*.

him to the said hereditaments in the meantime and thereupon this agreement shall save as aforesaid become void.

10. [*Clause as to payment of costs, charges, and expenses as in Form* 85, *clause* 11, *p.* 140, *ante, substituting* the vendor *for* the servient owner *and* the purchaser *for* the dominant owner *and omitting all reference to the surveyor.*]

11. This agreement is entered into by the vendor to the intent that the same shall bind and inure for the benefit of the land comprised in the vesting deed thereof under which the vendor is tenant for life (*d*) and that the same may be enforceable by or against the vendor and his assigns and every successor in title for the time being of the vendor in respect of such land and except where the context shall otherwise require the provisions of this agreement and the expression "the vendor" shall be interpreted so as to give effect to such intent and the said sum of £[100] shall be paid to the trustees for the time being for the purposes of the Settled Land Act 1925 of the said vesting deed.

IN WITNESS, &c.

[*Signatures of both parties.*]

89.

AGREEMENT for Securing Privacy for a House and Garden (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*adjoining owner*] of &c. (hereinafter called the neighbour) of the other part.

WHEREAS the owner is seised in fee simple of the messuage and garden known as —— [and delineated on the plan [No 1] hereto annexed and thereon coloured [red]]

AND WHEREAS the neighbour is seised in fee simple of the plot of land adjoining the first mentioned messuage and garden on the [west] side thereof [which hereditaments are also delineated on the said plan and thereon coloured [blue]] and has commenced to erect thereon a messuage or building with windows in the [west and south] walls thereof which windows will or may overlook the owner's said garden or part thereof

AND WHEREAS the owner has threatened to erect a hoarding or screen so as to obstruct the view from the said windows over his said garden which hoarding or screen will seriously interfere with the amenity of the neighbour's said premises

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(*d*) As to power of a tenant for life to sell easements over the settled land see Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 38 (*i*); and as to his contractual powers, *ibid.* s. 90.

(*e*) Stamp 10*s*. This agreement should be under seal. A right to privacy can only be acquired by grant or contract, see Halsbury's Laws of England, title "Easements," vol. 11, p. 329.

AND WHEREAS for the purpose of preserving the privacy and amenity of their respective premises it has been proposed that the parties hereto shall enter into this agreement

NOW IT IS HEREBY AGREED as follows :—

1. The neighbour shall forthwith brick up all apertures and windows in the [west] wall of his said messuage except the window on the ground floor and of the first and second front rooms thereof [*or* marked A and B on the sectional plan of the said messuage hereto annexed and marked No. 2] which last mentioned windows shall not exceed —— inches in height or width [and shall be glazed with ground glass].

2. The neighbour his heirs and assigns will not at any time hereafter make any windows or apertures in the [west] wall of the neighbour's said messuage overlooking the garden of the owner or otherwise interfere with the privacy of the same so as to cause annoyance to the owner his family or friends.

3. If and so long as the neighbour his family and friends shall observe the stipulations contained in clauses 1 and 2 hereof the owner shall not erect any hoarding screen or other obstruction on his own premises for the purpose of obstructing the prospect from the windows in the south wall of the neighbour's said messuage or otherwise so as to interfere with or detract from the amenity of the neighbour's said premises.

4. Each party shall bear his own costs of and incidental to this agreement.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

90.

AGREEMENT for Preventing Interference with the Prospect from a House (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*adjoining owner*] of &c. (hereinafter called the neighbour) of the other part.

WHEREAS under or by virtue of a lease dated the —— day of —— and made between [*parties*] the owner is possessed of the messuage and premises known as —— and delineated and coloured [red] on the plan annexed for the residue of a term of —— years from the —— day of ——

AND WHEREAS the neighbour is seised in fee simple in possession free from incumbrances of a plot of land adjoining the owner's said hereditaments on the [south-west] side thereof which plot of land is also delineated and coloured [blue] on the said plan

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(*f*) Stamp 2*s.* 6*d.* for every £5 of the annual payments. The agreement should be under seal. As to obstruction of view see cases cited in the English and Empire Digest, vol. 19, p. 180.

AND WHEREAS the neighbour may hereafter erect on the said plot of land buildings which would obstruct the view at present enjoyed by the owner from the windows in the [south-west] wall of his said messuage on the first and second floors thereof

AND WHEREAS for the purpose of preserving the view from the owner's said premises and securing the amenity of the same during the said term it has been arranged that the parties hereto shall enter into this agreement.

NOW IT IS HEREBY AGREED as follows :—

1. The neighbour shall not at any time during the continuance of the said term erect any building hoarding or other structure of whatsoever kind on the plot of land coloured [blue] on the said plan so as to obstruct or interfere with the view now enjoyed by the owner from the windows in the [south-west] wall of his messuage on the first and second floors thereof or so as to detract from or injure the amenity of the owner's said premises.

2. In the event of the neighbour selling leasing mortgaging or otherwise dealing with the plot of land coloured [blue] on the said plan he shall insert in every conveyance lease mortgage or other instrument affecting the said plot of land effectual provisions for the purpose of binding all persons for the time being having any estate or interest in the said plot of land to observe the stipulations contained in clause 1 hereof.

3. If and so long as the stipulations in clause 1 hereof shall be duly observed the owner will pay to the neighbour his heirs and assigns the sum of £—— in every year on the —— day of —— the first such payment to be made on the —— day of —— next. Such annual payment shall be charged upon the estate and interest of the owner his executors administrators and assigns in the said messuages and premises coloured [red] on the said plan in favour of the neighbour his heirs and assigns.

4. Nothing herein contained shall operate to prevent or hinder the neighbour his heirs and assigns from erecting upon the said plot of land coloured [blue] any building or structure the height whereof shall not exceed the height of the existing party wall coloured [yellow] on the said plan between the owner's and the neighbour's respective premises by [four] feet or less.

5. No alteration in the position size or plane of the said windows of the owner's said messuage shall preclude the owner or those claiming under him from enforcing the stipulations contained in clause 1 hereof.

6. Either party hereto will at the request and cost of the other party hereto execute and do all such instruments acts and things as shall be reasonably necessary for the purpose of giving full effect to this agreement.

7. Notice of this agreement shall be endorsed upon the said lease and upon the conveyance to the neighbour of the said plot of land coloured [blue].

8. The costs of both parties of and incidental to this agreement shall be borne and paid by the owner.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

91.

AGREEMENT for Enjoyment of Water Rights in an Artificial Watercourse (*g*).

AN AGREEMENT made the —— day of —— BETWEEN [*first riparian proprietor*] of &c. (hereinafter called the miller) of the one part and [*second riparian proprietor*] of &c. (hereinafter called the manufacturer) of the other part.

WHEREAS the miller is seised in fee simple in possession of the mill and premises delineated on the plan hereto annexed and therein coloured [red] and claims to be entitled by prescription or otherwise to the right to enjoy for the purposes of his said mill the flow of the water along the artificial channel or cut coloured [blue] on the said plan between the points A and B marked thereon in its ancient and accustomed course and volume

AND WHEREAS the manufacturer is seised in fee simple in possession of the land coloured [green] on the said plan on the [west] bank of the said channel or cut and has recently erected upon the said land a manufactory and buildings for the purpose of his business of a [tanner]

AND WHEREAS the said manufacturer has recently placed on the bed of the said channel or cut catch boxes and pipes and by means thereof has abstracted and used for the purposes of his said business the water flowing in the said channel or cut and by reason thereof the miller alleges that the ancient and accustomed flow of the said water has been greatly diminished and that he is deprived from time to time of a sufficient flow of water for the purposes of his said mill

AND WHEREAS it has been proposed that the parties hereto should enter into and become bound by the stipulations herein contained for the purpose of regulating their respective rights to the enjoyment of the said water.

NOW IT IS HEREBY AGREED as follows :—

1. The manufacturer shall be entitled to abstract and use for the purposes of his said business water from the said channel or cut in the following quantities, namely between the 1st of May and the 30th of September —— gallons per hour during a day of [12] hours and between the 1st of October and the 30th of April, —— gallons per hour during a day of [12] hours in each year, PROVIDED ALWAYS that if by reason of an exceptionally dry season or other causes the depth of the water at the measuring rod marked A on the said plan and situate —— yards to the [north] of the manufacturer's said hereditaments shall for more than —— consecutive hours be less than [6] feet the manufacturer shall not abstract from the said channel or cut more than —— gallons per hour during a day of [12] hours until the depth of the said water at the measuring rod aforesaid shall exceed [6] feet.

(*g*) Stamp 10*s*. As to artificial watercourses, see Halsbury's Laws of England, title "Easements," vol. 11, p. 315.

2. The manufacturer shall so far as possible return all water abstracted by him to the said channel or cut at a point or points higher up the bank of the said channel or cut than the miller's said mill and will pollute the same as little as possible.

3. The miller shall be entitled at all times to scour the bed of the said channel or cut where the same adjoins the premises of the manufacturer but shall not damage or displace the catch boxes or pipes of the manufacturer.

4. The manufacturer will at all times keep the miller indemnified against all actions or demands which may be made by any lower riparian proprietor by reason of a diminution of flow or pollution of the water in the said channel or cut caused by the abstraction or use of the same by the manufacturer.

5. The costs of and incidental to this agreement incurred by the miller shall be borne and paid by the manufacturer.

6. The expressions the miller and the manufacturer hereinbefore used shall include their respective heirs and assigns and all persons claiming under them respectively.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

92.

AGREEMENT for use of Wall as a Party Wall (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 90, *p.* 147, *supra*].

WHEREAS the neighbour has lately erected a dwelling-house and buildings known or to be known as ——, abutting on the owner's dwelling-house and premises known as ——, and has removed the wooden fence separating the premises of the owner from the premises of the neighbour and is erecting in place of the said fence a brick wall [nine] inches in thickness

AND WHEREAS the owner alleges that part of such wall is erected upon land belonging to him and that such erection constitutes a trespass upon his said premises

AND WHEREAS the parties hereto are desirous of settling all questions as to the ownership of such wall and all differences between them relating to the alleged trespass.

(*h*) Stamp. Bond covenant, etc., duty on the sum payable under clause 4. On and after the 1st of January, 1926, the ownership of such wall is deemed to be severed vertically and each party to enjoy in respect of his own part rights of support and user over the other part: Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 38; Sched. I, Part V. For the position before this Act see *Watson* v. *Gray* (1880), 14 Ch. D. 192; *Mayfair Property Co.* v. *Johnston*, [1894] 1 Ch. 508; and *Mason* v. *Fulham Corporation*, [1910] 1 K. B. 631, 637.

NOW IT IS HEREBY AGREED as follows :—

1. The neighbour shall complete the erection of the said wall on the site on which the same now stands along the entire length of the boundary between the premises of the owner and the neighbour and shall build the same in a substantial and workmanlike manner to a height of not less than —— feet, and not more than —— feet, and nine inches in thickness throughout its length within —— weeks from the date of this agreement [unless prevented by strikes, accident or other unavoidable cause] such wall and the foundations thereof to be constructed to the reasonable satisfaction of the owner.

2. The owner shall afford to the neighbour and his workmen all reasonable access to the owner's said premises for the purpose of enabling the said wall to be speedily and efficiently built they doing as little damage as possible to the owner's said premises and making good all such damage to the owner's reasonable satisfaction.

3. The said wall when erected shall be deemed to be a party wall between the premises of the owner and the neighbour who shall henceforth keep their respective parts of the wall in such state of repair as will ensure to each of them in respect of his own part the convenient enjoyment of his rights to support and user over the rest of the wall (*i*).

4. The owner will on completion of the said wall pay the neighbour £—— as his contribution towards the cost of erecting the same.

5. Each party shall bear his own costs of and incidental to this agreement and the negotiations leading thereto.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

93.

AGREEMENT for the Enjoyment of Light and Rights to a Wall (*k*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 90, p. 147, *supra*].

WHEREAS the owner has opened windows in his warehouse and workshops coloured [blue] in the plan drawn in the margin of these presents which windows overlook certain hereditaments, situate in —— and coloured [green] in the said plan, of which hereditaments the neighbour is seised for an estate in fee simple in possession

AND WHEREAS the said neighbour has lately pulled down and rebuilt a wall coloured [red] on the said plan between the said property and the property of the owner, and has carried it up —— feet —— inches higher than it heretofore stood

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(*i*) See *Jones* v. *Pritchard*, [1908] 1 Ch. 630; *Sack* v. *Jones*, [1925] Ch. 235.
(*k*) Stamp 10*s*.

AND WHEREAS in order to prevent disputes touching the said windows and the alterations in the said wall, the parties hereto have arranged to enter into the several stipulations on their respective parts hereinafter contained.

NOW IT IS HEREBY AGREED as follows :—

1. The neighbour shall at all times hereafter be at full liberty to erect at his own expense a storehouse or other building on his own land to any height close against the said warehouse and workshops of the owner at the westernmost extremity thereof, so far as (but not further eastward than) —— feet and —— inches from the south-east corner of such warehouse, as shown by the letters A and B on the said plan, notwithstanding that such building will or may obstruct the light and air coming to the windows in the said warehouse and workshops.

2. The neighbour shall at his own expense place and ever afterwards maintain and repair a leaden or iron gutter, shoot or watercourse between any building so erected by him and the said warehouse and workshops so as effectually to carry the water flowing therefrom into, over and along his own premises.

3. The said newly erected wall coloured [red] in the said plan shall for ever hereafter remain of the same height or elevation as it now stands.

4. The neighbour shall be at full liberty at all times hereafter after having given the owner —— days' notice thereof, in writing, to insert joists and take bearings in and upon the southern wall of the warehouse and workshops of the owner, such joists and bearings to be first approved by the owner, the owner repairing any damage which may be occasioned by making such insertions and bearings respectively and thenceforth maintaining and repairing them.

5. All the windows in the warehouse and workshops of the owner eastwards of the said intended storehouse or other building of the neighbour shall continue to receive the full light and air now coming to the same (save in so far as the same may be obstructed as mentioned in clause 1 hereof) unobstructed and undiminished by the neighbour, or any other person or persons whomsoever claiming any easement, right, title or interest in or to his said premises, under, or in trust for him.

6. All questions, disputes and differences which may arise between the said parties touching or relating to the matters hereinbefore mentioned or in relation to any matter or thing to be done by virtue hereof, shall be referred to arbitration pursuant to the Arbitration Act, 1889, or any statutory modification thereof for the time being in force.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

94.

AGREEMENT for Enjoyment of Light and Straightening Boundaries (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*first adjoining owner*] of &c. (hereinafter called the owner) of the first part [*mortgagees*] of &c. (hereinafter called the mortgagees) of the second part and [*second adjoining owner*] of &c. (hereinafter called the neighbour) of the third part.

WHEREAS the owner is seised in fee simple in possession of the hereditaments known as [the Red House], situate &c. subject only to a mortgage thereon for £—— and interest which mortgage is now vested in the mortgagees

AND WHEREAS the neighbour is seised in fee simple in possession free from incumbrances of the hereditaments known as [the White House], situate &c. and adjoining [the Red House] on the [east] side thereof

AND WHEREAS the said hereditaments are delineated so far as is necessary for the purposes of this agreement on the plan hereto annexed the boundaries of [the Red House] being coloured [red] on the said plan and the boundaries of [the White House] being coloured [blue] on the same plan

AND WHEREAS the hereditaments coloured [yellow] on the said plan consist of a plot of ground lying on the [west] of the [Red House] at present unbuilt upon

AND WHEREAS prior to alterations which have recently been made in the said respective premises part of a cellar forming part of [the Red House] aforesaid intruded within the boundary between [the Red House] and [the White House] delineated on the said plan and thereon marked within a [green] line and part of a room on the ground floor of [the White House] projected over or within the said boundary

AND WHEREAS the parties hereto are desirous of straightening the boundaries of their respective premises as hereinafter mentioned

AND WHEREAS the owner has recently opened windows in [the Red House] aforesaid dependent for light over the space marked [yellow] on the said plan, the whole of which space is vested in fee simple in the neighbour who claims the right to obstruct the said windows and any other windows which the owner may hereafter open on the west side of [the Red House] aforesaid

AND WHEREAS the owner and the neighbour have agreed to enter into this agreement for the purpose of regulating their respective rights as regards the matters aforesaid, and the mortgagees at the request of the owner have agreed to concur in such agreement

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(*l*) Stamp. *Ad valorem* duty on the consideration money (see Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 59 (1)).

AND WHEREAS it was a term of the said agreement that the owner should pay the neighbour £[100], which sum has been duly paid as the neighbour hereby acknowledges.

NOW IT IS HEREBY AGREED as follows :—

1. The owner for the time being of [the Red House] and [the White House] respectively shall be at liberty to open windows overlooking the said space coloured [yellow] on the said plan and maintain the same and also the windows already opened as aforesaid in perpetuity without interruption by the other of them or those claiming under him.

2. The owner shall not acquire any right to light over such part of [the White House] as lies within the letters A, B, C, and D marked on the said plan in respect of any windows which the owner may hereafter open in the wall of [the Red House] lying between the said points A and B.

3. The owner for the time being of [the White House] shall not erect or place upon the said space coloured [yellow] on the said plan any building or other erection above the roof of the present ground floor of [the Red House] and the height of [the Red House] and [the White House] respectively shall not be raised to any extent or any structure or building substituted therefor of greater height than the present height of the said respective buildings.

4. The expense of building party walls to straighten the boundaries of the respective premises shall be borne by the owner and the neighbour in equal shares.

5. The owner with the concurrence of the mortgagees will on the request of the neighbour convey to him for an estate of unincumbered fee simple all that piece of land formerly the site of such part of [the Red House] as projected over or intruded within the said boundary prior to the said alterations.

6. The neighbour will on the request of the mortgagees or the owner convey all that piece of land formerly the site of such part of [the White House] as projected over or intruded within the said boundary prior to the said alterations to the mortgagees for the term of [3000] years subject to such right of redemption as is subsisting under the said mortgage as regards the hereditaments comprised therein and subject to such mortgage term to the owner in fee simple.

7. Every party hereto shall accept the title of the other or others of them without requisition or objection.

8. The costs of and incidental to this agreement and the preparation and execution in duplicate hereof, and of any deed, act or thing to be executed or done in pursuance hereof which may be incurred by the mortgagees shall be paid by the owner, and until payment shall be charged on [the Red House] aforesaid as part of the principal moneys secured by the said mortgage and shall bear interest accordingly. The owner and the neighbour shall each bear and pay his own costs of and incidental to the matters aforesaid or any of them.

9. [*Arbitration clause as in Form* 29, p. 47, *supra.*]

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

ELECTRICITY.

95.

AGREEMENT for the Supply of Electricity to a Cinema (*m*).

AN AGREEMENT made the —— day of —— BETWEEN —— whose registered office is at —— by their Secretary —— (hereinafter called the company) of the one part and —— whose registered office is at —— by their Secretary —— (hereinafter called the consumers) of the other part.

WHEREAS the company is constituted under the Companies Acts 1908–1917 and is empowered under the —— Electric Lighting Orders —— to supply electric energy (hereinafter called energy) in the Urban District of ——

AND WHEREAS the consumers are receiving a supply of energy for their premises known as —— Cinema within the said Urban District of —— under an agreement dated the —— day of —— made between the parties hereto

AND WHEREAS it has now been agreed between the parties hereto that the company shall continue to supply the consumers with energy at a price for the supply under this agreement less than the maximum price which the company are entitled to charge and subject to the conditions hereinafter mentioned.

NOW IT IS HEREBY MUTUALLY AGREED as follows :—

1. The above mentioned agreement dated the —— day of —— shall be deemed to be cancelled as from the —— day of —— and the company shall as from that date continue to furnish such a full and continuous supply of energy to the consumers as may be required by the consumers for the regular working of all machinery and plant in and for lighting the consumers' premises situate as aforesaid at the price and subject to the terms hereinafter contained such energy being alternating current of fifty periods at approximately 415 volts three-phase and approximately 240 volts single-phase.

2. It is agreed that the consumers shall pay for the supply of energy on the following basis, that is to say :—

(1) A maximum demand charge at the rate of [£28 2*s.* 6*d.*] per quarter for the first [fifteen] kilovoltamperes of maximum demand or any portion

(*m*) No stamp (Electric Lighting Act, 1909 (9 Edw. 7, c. 34), s. 19). As to agreements for electricity generally see Will's Electric Lighting, 5th Edn. p. 90, and Dalton's Electricity (Supply) Act, 1926, p. 115, and as to supplying premises partly outside the authorised area see *Att.-Gen.* v. *County of London Electric Supply Co.*, [1926] Ch. 542. These precedents are based on forms kindly supplied by Lt.-Col. G. C. Stowell of the Electric Supply Corporation, Limited, of 424 Salisbury House, E.C.2.

thereof. Any demand in excess of [fifteen] kilovoltamperes up to [thirty] kilovoltamperes which is the maximum to be supplied under this agreement shall be charged at the rate of [37*s.* 6*d.*] per kilovolt-ampere of maximum demand per quarter.

(2) In addition to the maximum demand charge the consumers shall pay for all energy supplied at the rate of thirty-five one-hundredths of one penny per Board of Trade unit.

(3) To provide for fluctuations in the price of coal the basic price of coal ascertained in the manner provided between the company and the Electric Power Supply Company in their agreement for a supply of electricity in bulk shall be taken to be an average of twenty shillings per ton and the charge of thirty-five one-hundredths of one penny per Board of Trade unit referred to herein shall accordingly be varied in the following manner that is to say, for each shilling and *pro rata* for any fraction of a shilling by which the average price of coal ascertained as aforesaid throughout any quarter rises above or falls below the basic rate of twenty shillings per ton there shall be an increase or decrease of ·0175*d.* for each Board of Trade unit supplied. PROVIDED ALWAYS AND it is hereby further agreed that there shall be added in each account for the supply of electricity a sum equal to 5 per cent. of the aggregate of all charges referred to herein.

3. The company will read the meters of the consumers on the last day of each month and shall submit to the consumers within seven days thereof an account of all charges due under this agreement, that is to say :—(1) The maximum demand charge based on the highest demand recorded during the previous quarter with a minimum charge of [£9 7*s.* 6*d.*] per month exclusive of the charge per unit supplied. (2) The charge for electricity supplied during the month. (3) In the last monthly account of any quarter there shall be adjusted (*a*) Any variation of the charges for electricity supplied in accordance with fluctuations in the price of coal and (*b*) Any variation of the maximum demand charge based on the highest recorded demand during that quarter but subject however always to the aforesaid minimum charge of [£9 7*s.* 6*d.*] per month and (4) a surcharge of five per cent. of the aggregate of all charges and the consumers shall pay the company's accounts within twenty-one days after the end of each month.

4. The company shall supply and maintain three single-phase integrating watt-hour meters and three maximum demand indicators and the consumers shall pay to the company each calendar month the sum of [fifteen shillings] as rental for these meters and indicators. The charge for the Board of Trade units shall be based on the sum of the readings of the three integrating watt-hour meters unless one or more are manifestly wrong in which case the charge shall failing agreement be settled by arbitration and the maximum kilovoltamperes demanded shall be the sum of the records of the maximum demand indicators.

5. The company shall not be responsible for accidental interruption nor for any stoppage or deficiency of energy due to any force majeure

strikes or other inevitable causes but they shall be bound to restore the supply as soon as possible.

6. The consumers shall maintain a reasonable balance between the three phases and shall not demand more than thirty kilovoltamperes.

7. The consumers shall make use of the supply in a reasonable manner so as to avoid any undue or improper interference with the general supply given by the company.

8. This agreement shall be for a term of three years from the —— day of —— up to the —— day of —— and thereafter shall continue and remain in force from one year to another unless determined at the end of the stated term or of any year thereafter by either party giving to the other six calendar months' previous notice in writing.

9. This agreement shall be considered as terminated if the company think fit (and that whether notice be given by the company to that effect or not) by the consumers going into liquidation whether voluntarily or compulsorily or by a receiver being appointed of any assets of the consumers' undertaking or business or any part thereof or by an execution or distress being levied upon the above premises but without prejudice to any right or cause of action then accrued to the company or for any claim for damages for breach of this agreement.

10. The terms and conditions on the company's form of application a copy of which is attached hereto shall so far as they are not superseded by this agreement be binding on both parties (*n*).

11. Should any difference arise between the company and the consumers as to the quality of the electrical energy supplied or as to the interpretation of this agreement such difference shall be referred to two arbitrators one to be appointed by each party or their umpire pursuant to the Arbitration Act 1889 or to any statutory modification or re-enactment thereof for the time being in force provided that if such Arbitrators shall in any case fail to agree as to an umpire such umpire shall be appointed by the President for the time being of the Institution of Electrical Engineers upon the application of either party to this agreement.

IN WITNESS whereof the company and the consumers have through their respective Secretaries hereunto set their hands the day and year first above written.

WITNESS,
(Sd.) ——
Address ——
Occupation ——

(Sd.) ——
Secretary

WITNESS,
(Sd.) ——
Address ——
Occupation ——

(Sd. ——
Secretary

(*n*) See form of application p. 158.

96.

APPLICATION for a Supply of Electricity (*o*).

THE —— ELECTRICITY COMPANY, LIMITED.

ELECTRICITY WORKS, ——.

Address of Premises at which supply is required ——

Date supply required (at least 14 days' notice should be given) ——

Number of Lamps ——

Heating Apparatus ——

Number of Motors, &c. ——

Name and Address of Electrician ——

Consumer's full Christian Name and Surname ——

Description and Occupation ——

(Ladies should add after their signature "spinster" "widow" or "wife of —— and having a separate estate")

(Company contracts should be signed by the Secretary, Manager, or Director, on behalf of the Company.)

(Partnership applications should be signed by a member of the firm "for self and partners.")

I/WE agree to take a supply of electricity to the above premises upon the conditions printed hereon (or annexed hereto)

Consumer's signature ——

Present address ——

References—Here should be stated the previous Supply Authority (gas or electric) if not supplied by prepayment meter, or Bankers or Trade Reference ——

Date of Application ——

Date of Acceptance ——

NOTE.—Wait for an acceptance before proceeding with the installation or extensions.

THE —— ELECTRICITY COMPANY, LIMITED.

TERMS AND CONDITIONS OF SUPPLY (*p*).

1. The —— Electricity Co. Ltd. will supply Electricity in accordance with their Statutory Powers.

(*o*) No stamp, see note (*m*) on p. 155.

(*p*) These conditions must be in accordance with the Company's Statutory Powers.

2. Electricity will be supplied and meters will be provided on hire, at such rates and on such terms and conditions as are or may be current during the continuance of this Contract.

3. The consumer agrees to give security for the payment of all moneys which may from time to time become due, whenever required by the company so to do.

4. The company is obliged by law to pay interest at the rate of 4 per cent. per annum on every sum of 10*s*. deposited with them for every six months during which it remains in their hands. The company will, however, pay simple interest at the rate of 5 per cent. per annum on any sum deposited, the interest being handed over with the deposit when it is returned.

5. The consumer agrees to pay the company's accounts either monthly or quarterly at the discretion of the company, and to settle them in full without regard to any sum held as security under the preceding clause.

6. The consumer agrees to the supply being ascertained by a meter or meters provided by the company. Should any question arise as to the accuracy of any meter the company will have the meter tested against their own standard instruments, and if the meter be found inaccurate make no charge for such test and adjust the account accordingly for the quarter in dispute. Should the meter be found accurate the consumer agrees to bear the cost of the test, in accordance with the company's standard charge. The consumer may, if desired, have the meter or meters tested as set out in the Electric Lighting Acts.

7. If the meter shall from any cause cease or omit to register accurately the amount of electricity consumed, the consumer agrees to pay in respect of the electricity supplied during any such period a reasonable proportion based on the former readings of such meter, or on subsequent readings of a meter substituted therefor.

8. The consumer agrees to be responsible for all electricity consumed by himself or others, on the premises mentioned overleaf, until the company has, at his written request, disconnected the supply.

9. In ordinary cases of furnished tenancies the company will not recognise the sub-tenant, but will hold the original tenant responsible for the account. For the convenience of the parties concerned the company will, upon receiving twenty-fours' notice in writing, read the meter and furnish particulars regarding the electricity consumed. Special readings are charged for in accordance with the company's standard rates and are payable in advance.

10. The consumer agrees to notify the company forthwith should it be discovered that the meter has ceased to register.

11. The company may discontinue the supply if the account be unpaid 10 days after demand is made.

12. The consumer agrees to give the company's representative free access at all reasonable times for the inspection, disconnection, repair, or removal of their property.

13. For the purpose of repairing or effecting alterations to their plant, supply mains, or connections therewith, the company may discontinue the supply for such short periods as may be necessary, and they shall not be responsible for any temporary interruption in the supply of electricity occasioned by tempest, fire, or other cause not within the company's control, but will restore the supply with all reasonable diligence.

14. The consumer agrees to give notice in writing to the company of any proposed extensions or alterations to his installation.

15. Before the work of installation is commenced the company's representative will fix the position of the meters and main fuses, for which provision must be made.

16. The consumer shall be responsible to the company for the safe keeping of all the company's apparatus placed on his premises, and shall keep the same insured against fire or any loss from causes originating on the consumer's premises.

17. Electricity is supplied on a 4-wire 3-phase alternating current system, at a frequency of 50 periods per second, with 230 volts between the neutral (which is earthed) and any one of the main conductors, and 400 volts between the main conductors.

FOR LIGHTING, COOKING and HEATING.—Supply will be given at 230 volts, and when the connected load on any installation exceeds 20 amperes, arrangements must be made with the company for balancing the load between phases.

FOR POWER.—Motors not larger than 1 B.H.P. may be wound for single-phase 230 volts. Larger motors must be wound for three-phase 400 volts and the special regulations of the Board of Trade and Home Office must be complied with. The starting current of all motors must not exceed $1\frac{1}{4}$ times full load current.

[*Or*, Electricity is supplied for lighting heating and cooking on the direct-current system at [225] volts one pole being earthed. Installations taking more than 10 amperes must be wired on two distinct and separate circuits. Motors over 2 B.H.P. must be wound for [450] volts; the starting current must not exceed full load current. The consumer must comply with the regulations of the Board of Trade and the Home Office for motors supplied at a pressure exceeding [250] volts.]

18. A reduced rate is charged for electricity supplied for heating, cooking and power, provided all plugs and sockets used on these circuits are standard 10-ampere size or over, and all lighting plugs are not larger than 5-ampere size, and that it shall not be possible to make use of the lighting plugs in the power sockets.

19. Consumer's installations should be carried out in accordance with the latest rules of the Institution of Electrical Engineers, and also those of any Fire Insurance Company concerned, but it must be distinctly understood that no guarantee by the company is hereby implied nor is the company in any way responsible for any defects in the consumer's installation.

20. The company provides main fuses which are sealed, and must on no account be interferred with.

21. No apparatus other than a meter is to be installed between the company's fuses and the consumer's main switches and fuses.

22. Each meter requires a loop on the outer wire; these loops must be provided by the consumer.

23. The company for its own satisfaction inspects and tests each installation. No charge is made for the first test, but the consumer must pay 7*s.* 6*d.* for each subsequent test that may be required.

24. When the premises have been previously supplied with electricity a charge is made for testing and inspection in accordance with the company's standard rates. When the premises have not been previously supplied with electricity the charges vary according to the requirements of each particular case. These fees are payable in advance.

25. Service lines will generally be laid in any public thoroughfare, free of charge, to buildings situated within [60 feet] of the company's distributing mains, but the consumer will be required to contribute towards the cost of laying the service lines beyond that distance, and also the laying of service lines on private property. The route of all service lines will be determined by the company. In the event of any mains or service lines being required to be carried through or over private property, the necessary wayleave shall be obtained by the consumer. The company will do as little damage as possible in making the connection, but will not be responsible for any injury to the premises, nor do they undertake complete reinstatement of any wall, floor, or other part of the building. The consumer agrees to carry out the installation referred to in the Schedule within a reasonable time, and in the event of such installation not being carried out the consumer agrees to repay the company any costs incurred in connection with the intended supply. All cables, service lines and other apparatus supplied by the company shall remain the property of the company and may be removed by the company, and the agents of the company shall at all times be entitled to enter upon the premises of the consumer for the purpose of inspecting, altering, replacing, testing, maintaining, repairing or removing such cables, lines and other apparatus, and all necessary facilities shall be given by the consumer for such purpose.

97.

AGREEMENT for Hire-Purchase of Electrical Fittings (*q*).

THE —— ELECTRICITY COMPANY, LIMITED.

1. THE UNDERSIGNED —— (hereinafter called the hirer) hereby hires from the —— Electricity Company Limited of —— (hereinafter called the owners) the electrical installation details of which are contained in

(*q*) Stamp 6*d.* (Finance Act, 1907 (7 Edw. 7, c. 13), s. 7). As to the letting on hire and sale of electric fittings, see Will's Electric Lighting, 5th Ed., pp. 206, 249, and Dalton's Electricity Supply Act, 1926, p. 123. See note (*m*) on p. 155, *supra*.

the Schedule hereto at —— of the agreed value of £—— (in words ——) and to pay the owners as hire the sum of £—— on demand and a like amount on each of the following usual quarter days commencing —— until 13 such payments (hereinafter called the rental payments) have been made but any or all of the rental payments may be paid in advance of due dates under discount at the rate of 5 per cent. per annum.

2. The hirer shall continue the hire until the rental payments which shall be punctually paid shall amount to the agreed value when the owners will if the hirer shall give written notice that he desires to retain the installation give to the hirer a receipt in full discharge and the installation shall be the property of the hirer provided always that meanwhile the hirer shall be at liberty to terminate the hiring on payment to the owners of the balance of the agreed value.

3. Until the receipt in full discharge be given the hirer shall have no property in the installation and shall throughout the hiring keep the same in his own custody and control as already affixed and in good order including necessary replacement (damage by fire or otherwise included) and shall not attempt to alienate or dispose of the same or of any part thereof nor suffer any such attempted disposal or alienation nor prevent the owners by their agents at any time from entering the premises to inspect the installation and shall indemnify the owners by reason of any claim arising out of or in consequence of the installation.

4. Should the hirer through change of circumstances be unable to continue the payments, he must give notice to the owners, and may on one of the usual quarter days transfer his interest in the installation to any responsible person (to be previously approved by the owners in writing) who shall bind himself with the owners in the form prescribed by the owners to continue the payments instead of the hirer. In the event of the hirer leaving the premises he must give at least one month's notice and should no arrangement under this clause be come to with the succeeding tenant of the premises or other person then the hirer shall be liable for the instant payment of the whole unpaid balance of the agreed value but the property in the installation shall remain with the owners notwithstanding the rental payments mentioned herein.

5. Should the hirer commit a breach of any of the terms of this agreement the owners may remove the installation and terminate the hiring and may not only sue for any rental payments in arrear but recover also the balance of the agreed value less the amount of the rental payments already paid.

6. The owners will only be bound by the terms written or printed hereon and any relaxation or indulgence which the owners may allow to the hirer during the hiring shall not in any way prejudice their rights under this agreement nor shall this agreement affect or be affected by any agreement between the owners and the hirer in respect to the supply of electricity.

7. This agreement is made notwithstanding anything hereinbefore contained subject to the rights of the owners under the Electricity

(Supply) Acts 1882 to 1926 and any statutory modifications or re-enactments thereof. All payments shall be made at the office of the owners and service of any notice or demand on the part of the owners shall be sufficient if sent by prepaid post addressed to the hirer at the above address.

THE SCHEDULE ABOVE REFERRED TO.

The property referred to in the above agreement of the agreed value of £—— consists of the wiring the accessories and the fittings and includes the following :—

1. LIGHTING.		2. HEATING.
— Lamp Holders.	— Pendants.	— Supply Points.
— Switches.	— Shades.	— Switches.
— Ceiling Roses.	— Lamps.	— Wall Sockets.
— Brackets.	— Wall Sockets.	— ——

NOTE.—This Agreement does not cover any contribution to the cost of the service line between the company's mains and the premises, which is a separate charge.

Date —— Signature ——

98.

AGREEMENT for Erecting Overhead Wires (*r*).

MEMORANDUM OF AGREEMENT made this —— day of —— BETWEEN —— of —— of the one part and the —— of —— (hereinafter called the company) of the other part.

WHEREAS the said —— is seised in fee simple of a piece or parcel of land with a workshop thereon situate in —— in the county of ——

AND WHEREAS the company have placed two electric light wires over the said workshop.

NOW IT IS HEREBY MUTUALLY DECLARED AND AGREED as follows :—

1. The said wires shall be deemed to have been placed over the said workshop with the express permission and consent of the said —— and the maintenance of such wires by the company its successors or assigns shall be deemed to be with the express permission and consent of the said —— his heirs and assigns to the intent that the company its successors or assigns shall not acquire any easement or right in respect thereof.

2. The company its successors or assigns shall pay to the said —— his heirs and assigns by way of acknowledgment for the permission hereby given to keep up the said wires so long as this agreement shall continue the yearly rent or sum of one shilling on the twenty-ninth day of September in every year if demanded.

(*r*) Stamp. This is a licence, not a lease, and liable to 2*s.* 6*d.* for every £5 annually payable. As to overhead wires generally see Will's Electric Lighting, 5th Edn. pp. 244, 256, 279, and Dalton's Electricity (Supply) Act, 1926, p. 139.

3. Either of them the said —— his heirs and assigns or the company its successors or assigns may at any time hereafter determine this agreement by giving to the other of them a notice in writing in that behalf and such notice shall be sufficient if sent by post addressed to the said —— or the company at his or its last known address in England.

4. In the event of this agreement being determined as aforesaid the company its successors or assigns shall forthwith at its own expense remove the said wires from over the said premises.

5. The company shall pay the cost of the said —— of and incidental to the preparation of this agreement and the stamp on same.

IN WITNESS whereof the said —— and the Secretary on behalf of the company have hereunto set their hands.

SIGNED by the Secretary of the above mentioned company in the presence of : (Sd.) ——

WITNESS,
(Sd.) ——

SIGNED by the above named —— in the presence of : (Sd.) ——

WITNESS,
(Sd.) ——

99.

AGREEMENT for Laying an Underground Cable (*s*).

AN AGREEMENT made the —— day of —— BETWEEN —— by their agents —— of —— (hereinafter called the owners) of the one part and —— of —— by their secretary —— (hereinafter called the company) of the other part.

WITNESSETH that in consideration of the rent hereby reserved and of the covenants on behalf of the company hereinafter contained the owners grant unto the company ALL THAT the right or easement of placing laying and maintaining an underground electric cable across the property of the owners and in the direction indicated by the red line shown on the plan marked A attached hereto and signed by the parties reinstating and making good the surface to the satisfaction of the said —— or other the agents for the time being of the said owners together with the right from time to time to enter upon and open up the land under which the said cable shall be laid for the purpose of inspecting and repairing the same reinstating and making good to the like satisfaction the surface as soon as possible thereafter TO HOLD UNTO the company from year to year until such time as the land under which the said cable shall be laid is taken over by the Local Authority and dedicated to the public as a public roadway or until the owners shall give to the company three calendar months' notice expiring

(*s*) Stamp 1*s*. as a lease.

at any time to remove the said cable the company yielding and paying therefor a yearly rent of [one shilling] payable in advance the first of such yearly payments being made on the signing of this agreement and the company agrees with the owners to pay the said rent hereby reserved at the time and in the manner aforesaid and the company hereby agrees to pay the said —— or other the receivers of the said owners for the time being the sum of two shillings and sixpence for each application for the said rent after the first application providing such applications are made not more frequently than once a week.

IN WITNESS whereof the parties hereto have hereunto set their respective hands the day and year first above written.

(Sd.) ——

WITNESS,

(Sd.) ——

Address ——

Occupation ——

100.

AGREEMENT for Erecting an Overhead Cable (*t*).

THIS AGREEMENT made this —— day of —— BETWEEN the —— whose registered office is at —— in the county of —— (hereinafter called the owners) of the one part and —— whose registered office is in —— (hereinafter called the company) of the other part.

WHEREAS the company has erected with previous permission on or over the land owned by the owners at —— an electric cable with standards and supports for the purpose of supplying electricity to —— also owned by the owners

AND WHEREAS it has been agreed that the owners should have an acknowledgment for the said cable so erected as aforesaid and that the company should have a proper access to such electric cable standards and supports for the purpose of maintaining and repairing the same.

NOW THIS DEED WITNESSETH that in pursuance of the said agreement and in consideration of the rent hereby reserved and of the covenants hereinafter contained the owners grant to the company its successors and assigns until determined as hereinafter mentioned ALL THAT right of access at all times to the said electric cable standards and supports for the purpose of repairing maintaining and relaying the same when necessary yielding and paying to the owners a yearly rent of [one shilling] payable annually in advance on the ——— day of ——— the company being responsible for all damage and loss of every kind whatsoever caused by the presence of the said electric cable excepting any damage or loss resulting from the act of God or the King's enemies.

The company covenants with the owners that it will until these presents are determined as hereinafter mentioned pay the said rent as

(*t*) Stamp 1*s.* as a lease. For other forms of Agreement for Wayleaves, see p. 476, *infra*

aforesaid and further will make any alteration in the line of cable which may be reasonably required by the owners in consequence of their erecting any houses on the line of cable and further the owners covenant with the company that the company may carry out a similar alteration of route if they find it desirable but in either case the company shall bear the whole expense of making the alteration.

PROVIDED AND IT IS HEREBY AGREED AND DECLARED that either party hereto shall be at liberty to determine these presents at any time on giving to the other one year's notice of intention so to do and the company shall be at liberty to remove the said cable making good any damage caused thereby PROVIDED ALWAYS that the company shall not determine these presents so long as the owners comply with the terms and conditions on which they have agreed to take a supply of electric current.

IN WITNESS whereof the Common Seal of the said —— and the Common Seal of the said —— have been hereunto affixed on the day and year first above written in the presence of

(Sd.) —— ◯ Seal.

(Sd.) —— ◯ Seal.

101.

AGREEMENT for affixing Electric Lighting Wires (*a*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*company*] whose registered office is situate at —— (hereinafter called the company) of the other part.

WHEREAS the owner is seised in fee simple free from incumbrances of [*or if leasehold* is entitled for the residue unexpired of a term of —— years from the —— day of —— by virtue of a lease dated the —— day of —— and made between [*parties*] to] certain hereditaments known as No. —— —— Street —— in the county of ——

AND WHEREAS the company are desirous of erecting upon the said hereditaments a standard or pole for carrying electric lighting wires and of acquiring a right to carry such wires and maintain the same over the said premises.

NOW IT IS HEREBY AGREED as follows :—

1. The owner hereby grants to the company this licence to affix to the owner's said premises at such point as the surveyors of the owner and the company shall agree upon an iron [*or* wooden] standard or pole [12] feet in height for the purpose of supporting not more than —— separate wires and of attaching such wires thereto and also of carrying such wires at a height of not less than —— feet above the premises of

(*a*) Stamp 10*s*.

the owner being part of the owner's said premises between the points marked A and B on the plan hereto annexed.

2. The owner will afford to the company's agents surveyors workmen and servants such access to any part of his said premises as shall be reasonably necessary for the purpose of erecting and affixing the said standard or pole and wires and from time to time examining replacing maintaining and repairing the same.

3. The said standard or pole and wires shall be the best of their kind and shall be so affixed and placed as to be as little conspicuous as possible.

4. The company shall do as little damage as possible to the owner's said premises in the exercise of any right to be granted in pursuance of this agreement and shall make good, as speedily as possible, any damage to the said premises.

5. The owner shall not be bound to admit to his premises any servant or workman of the company for the purpose of inspecting or repairing the said standard or pole or wires unless such servant or workman shall produce a permit signed by the general manager for the time being of the company.

6. In the event of the said standard or pole or wires being displaced or injured by storm, tempest, snow, or other accidental cause the company shall forthwith securely reinstate the same and make good any damage caused to the owner's said premises by reason thereof as speedily as possible.

7. The company will pay to the owner £—— on the —— day of —— in every year during which such standard or pole and wires shall remain erected on the owner's said premises, the first such payment to be made on the —— day of —— next.

8. The owner of the said premises shall be at liberty to determine this licence at any time on giving to the company [six] calendar months' previous notice in writing and thereupon the company shall remove the said standard or pole and wires and reinstate the said premises to the satisfaction of the owner.

[9. This licence is conditional on the company obtaining the consent of the freeholder of the said premises to the terms hereof on or before the —— day of —— next.]

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

EXCHANGES.

102.

AGREEMENT for Exchange of Freeholds. Variation where Enfranchised Land subject to Manorial Incidents (*b*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*first party*] of &c. of the one part, and [*second party*] of &c. of the other part.

(*b*) Stamp 6*d*.

WHEREAS the said [*first party*] is seised in fee simple in possession, free from incumbrances, of ALL THAT close of land called —— Close containing by estimation —— acres, or thereabouts, situate at ——, and now in the occupation of [*tenant*], and coloured [*green*] in the plan drawn in the margin hereof [*or, if formerly of copyhold or customary tenure,* of all that close of land known as —— Close situate at ——, formerly of copyhold [*or* customary] tenure of the manor of —— but now enfranchised by virtue of the Law of Property Act 1922 (*c*) subject nevertheless to a quit rent of —— and a heriot of —— [and to the rights of the lord of the said manor in or to any mines or minerals in or under the said close and the sporting and other rights affecting the same preserved by the Twelfth Schedule to that Act]] (*d*).

AND WHEREAS the said [*second party*] is similarly seised of several pieces of land called by the names of ——, and containing by admeasurement —— acres, lying dispersedly in the parish of —— and now in the several occupations of [*tenants*], and coloured [pink] in the said plan

AND WHEREAS the parties hereto are desirous of exchanging their respective hereditaments upon and subject to the terms and conditions hereinafter mentioned.

NOW THESE PRESENTS WITNESS as follows :—

1. Each of the parties hereto will on the —— day of —— execute a proper assurance of his said hereditaments to the other of the said parties or as he shall direct.

2. Each party will, on or before the —— day of —— next, at his own expense, deliver to the other of them an abstract of his title to the premises to be exchanged by him, and such titles respectively shall be deduced for a period of not less than —— years (*e*). All questions, if any, in dispute relative to either title shall be referred to and determined by Mr. —— as counsel on behalf of both parties and if, in his opinion, such title is not and cannot be made marketable, this agreement shall become void, and the party to which such property belongs shall bear all the expenses incurred under or by virtue hereof.

3. Each party shall be entitled to an apportioned part of the rents and profits of the property so to be assured by him as aforesaid, up to the day fixed for completion of the said exchange such part to be ascertained by valuation as hereinafter mentioned. And each party hereto shall defray all outgoings payable in respect of his property up to that day, and a proper proportion of the current tithe rentcharge, rates, taxes, and

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(*c*) 12 & 13 Geo. 5, c. 16, s. 128.

(*d*) Neither the sporting rights of the lord or of the tenant, nor their rights in relation to any mines or minerals are affected by the enfranchisement; but they may be extinguished by express inclusion in the compensation agreement (*ibid.* Sched. XII. (5)).

(*e*) In the absence of express agreement a thirty years' title must be shown: see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 44; which section makes the statutory conditions of sale applicable unless otherwise provided to contracts for exchange made after the Act.

As to the power of a tenant for life to make an exchange see Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 38 (iii), s. 40.

other outgoings charged thereon, or assessed and payable by the owner in respect thereof.

4. The value of the property exchanged by each party hereto and the proportions of the rents and profits thereof as aforesaid, and of the tithe rent-charge, rates, taxes, and other outgoings as aforesaid shall be ascertained and determined by [*surveyor*] of &c. and in case either property shall be found to exceed the value of the other, the party to whom the same shall be assured shall and will pay to the other of them, on the completion of the said exchange, the amount of such excess by way of equality of exchange.

5. No errors in the description of either of the said properties shall vacate this contract but shall form the subject of compensation the amount whereof shall be determined by the said [*surveyor*].

6. No loss or damage occasioned or arising from any intervening accidents whatever, nor any act occasioning a decrease in value, not being wilful on the part of the uninjured party, shall affect this contract, or entitle the other party to compensation in respect thereof but all benefits and advantages arising from any increase in value of either property shall belong to the party entitled thereto according to the said exchange.

IN WITNESS, &c.

[*Signatures of both parties.*]

103.

EXCHANGE of Easements by Way of Release (*f*).

THIS AGREEMENT is made the - — day of —— BETWEEN &c. [*parties as in the Form* 102, *p.* 167, *supra*].

WHEREAS the said [*first party*] is seised in fee simple in possession free from incumbrances of ALL THAT [*parcels*] delineated on the plan hereto annexed and thereon coloured [pink] and the said [*second party*] is seised for a like estate of ALL THAT [*parcels*] also delineated on the said plan and thereon coloured [yellow]

AND WHEREAS the said [*second party*] is or claims to be entitled to a right of way over the said hereditaments coloured [pink] between the points A and B marked on the said plan

AND WHEREAS the said [*first party*] is or claims to be entitled to a right of way over the said hereditaments coloured [yellow] between the points C and D also marked on the said plan for the purpose of access to the pump at the said point D on the plan aforesaid and a right to draw water from the said pump for use upon the said hereditaments coloured [pink]

AND WHEREAS the parties hereto for the purpose of making their said properties more private, and for their greater convenience have arranged for the exchange and extinguishment of such respective rights, in manner hereinafter expressed.

(*f*) Stamp 6*d*.

NOW IT IS HEREBY AGREED as follows :—

1. The said [*first party*] will release and give up to the said [*second party*] his right to the use of the said pump and the right of way over the hereditaments coloured [yellow] on the said plan to and from the same pump, To the intent that the same rights shall henceforth cease and be extinguished.

2. The said [*second party*] will release and give up to the said [*first party*] his said right of way over and along the hereditaments coloured [pink] on the said plan from the point marked A to the point marked B, To the intent that the same right shall likewise henceforth cease and be extinguished.

3. The parties hereto will, the one at the request and expense of the other of them, at any time hereafter, when thereunto respectively required, execute such assurances or releases for the purpose of carrying out this agreement as then shall be reasonably required free from all charges and incumbrances whatsoever.

4. Neither of the parties hereto shall require the other of them to deduce his title to the rights or easements hereby agreed to be released.

5. Each party shall bear his own costs of and relating to these presents and any assurance or release to be executed in pursuance hereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

104.

EXCHANGE of one Right of Way for another (*g*).

THIS AGREEMENT made the —— day of —— BETWEEN [*first party*] of &c. of the one part and [*second party*] of &c. of the other part.

WHEREAS the said [*first party*] is seised in fee simple of the land, situate at ——, and coloured [blue and yellow] on the plan hereunto annexed, subject to the right of way of the said [*second party*] and his family, friends, servants and licensees at all times to pass and repass with or without horses, carts, carriages and other vehicles (*h*) upon, over and along the private road or way, on the north part thereof coloured [yellow] on the said plan and leading from his dwelling-house at —— aforesaid to the town of —— in the county of ——

AND WHEREAS the said [*first party*] has lately made on the west side of his said land another road or way, coloured [pink] on the said plan, and leading from his said dwelling-house to the said town and such road or way being shorter and more convenient for use of the said [*second party*], he has agreed to exchange his right of way over the said road coloured [yellow] for and in lieu of the free and uninterrupted use of such

(*g*) Stamp 6*d*.

(*h*) *Semble* a grant of way for horses and carriages includes motor-cars : *Att.-Gen.* v. *Hodgson*, [1922] 2 Ch. 429.

new road from the point designated by the letter A to the point designated by the letter B on the said plan in all respects as he has heretofore used the said road or way coloured [yellow].

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*first party*] will at any time hereafter, at the request and expense of the said [*second party*] effectually convey to him, ALL THAT the full, free and undisturbed right for him and them and his and their families, friends, servants, workmen, and others, having his or their authority, at all times, to pass and repass upon, over and along the said road coloured [pink] on the said plan from the point marked A to the point marked B, with horses, carts, carriages and other vehicles in as full, free and uninterrupted manner as the said [*second party*] has heretofore used the said right of way upon, over and along the said road coloured [yellow] and that in the meantime and until such conveyance shall have been executed, the said [*second party*] shall and lawfully may use and enjoy the said right of way over the said road coloured [pink] accordingly.

2. The said [*second party*] will at any time hereafter, at the request and expense of the said [*first party*] effectually release to him, the said right of way now enjoyed by the said [*second party*] upon, over, and along the said road coloured [yellow] as aforesaid.

3. The said conveyance shall be prepared and engrossed by the solicitor of the said [*second party*] and the said release shall be prepared and engrossed by the solicitor of the said [*first party*]. Each party shall accept without investigation the title of the other party upon delivery of sufficient abstracts to enable such conveyance and release to be respectively prepared.

4. The said [*first party*] shall henceforth, at his own expense, maintain and keep the said road coloured [pink] in good repair.

5. The said [*second party*] shall not do any avoidable damage to the surface of the land coloured [pink] on the said plan or load or unload any goods, articles or things whatsoever thereon, or rest or remain longer thereon than may be absolutely unavoidable, or make, occasion, or permit any nuisance thereon.

IN WITNESS, &c.

[*Signatures of both parties.*]

GUARANTEES.

105.

GUARANTEE for Payment of a Debt. Variation when Guarantee is Limited in Amount (*i*).

To [*Creditor*] of &c. Dated the —— day of ——.

I HEREBY GUARANTEE [to the extent of £——] the payment to you of the sum of £—— which you have this day advanced to [*principal*

(*i*) Stamp 6*d*.

debtor] of etc. at my request together with interest thereon at £—— per cent. per annum such interest to run as between us from the date of your sending by registered post to me at —— a written demand for payment of the said sum of £—— and this guarantee shall not be affected by your granting time [or any other indulgence] to the said [*principal debtor*] or by his death or bankruptcy (*k*) [and I waive all rights which I may become entitled to as surety to compete with you in obtaining payment of the moneys due or to become due to you in respect of your said loan as against the said [*principal debtor*] or his estate or any other surety for him].

[*Signature of guarantor* (*l*).]

106.

AGREEMENT to Pay for Goods supplied to a Third Person (*m*).

AN AGREEMENT made the —— day of —— BETWEEN [*merchant*] of &c. of the one part and [*guarantor*] of &c. of the other part.

WHEREAS the said [*merchant*] has at the request of the said [*guarantor*] agreed to supply [*tradesman*] of &c. (*m*) from time to time in the course of his said trade with articles of [jewellery] on credit.

NOW IT IS HEREBY AGREED as follows :—

1. The said [*guarantor*] will pay the said [*merchant*] such sum and sums of money as shall from time to time or at any time hereafter during the continuance of this agreement become due to the said [*merchant*] from the said [*tradesman*] for articles to be so supplied as aforesaid, and not paid for by the said [*tradesman*].

2. The liability of the said [*guarantor*] under this agreement shall not at any time exceed £—— but subject thereto this guarantee shall be a guarantee for the whole of such sum or sums (*o*).

3. The guarantee hereby given shall be a continuing guarantee, but the said [*guarantor*] shall not at any time be responsible for or liable to pay to the said [*merchant*] more than the balance which may for the time being be due to him from the said [*tradesman*] not exceeding in the whole the said sum of £—— and no proceedings whatever shall be taken

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(*k*) See *Re Moss, Ex parte Hallett*, [1905] 2 K. B. 307.

(*l*) A promise to answer for the debt, default, or miscarriage of another person must be evidenced by some memorandum or note thereof in writing signed by the person to be charged, or by some person lawfully authorised by him to sign (Statute of Frauds (29 Car. 2, c. 3), s. 4). For the cases under this section relating to guarantees, see Halsbury's Laws of England, title "Contract," vol. 7, pp. 361 *et seq.*, and the English and Empire Digest, vol. 26, pp. 28 *et seq.*

(*m*) No stamp (*Chatfield* v. *Cox* (1852), 18 Q. B. 321).

(*n*) If the circumstances show that the parties intended the trade to be carried on at this address only, the guarantee will not cover goods supplied to the tradesman when trading elsewhere (*Spencer, Turner and Boldero* v. *Lotz* (1916), 32 T. L. R. 373).

(*o*) See *Hobson* v. *Bass* (1871), 6 Ch. App. 792 ; *Huggard* v. *Representative Church Body* (1916), 1 I. R. 1, 19.

against the said [*guarantor*] for the recovery of such sum or sums or any part thereof, until the expiration of —— day's notice, which shall be given, in writing, to him of default having been made by the said [*tradesman*] in payment thereof, or of some part thereof, and requiring the said [*guarantor*] to pay the same.

4. In the event of the said [*tradesman*] refusing or neglecting to pay such sum or sums as may for the time being be due from him, for articles to be so supplied aforesaid, or of his becoming bankrupt or filing any petition under the bankruptcy laws, or compounding or attempting to compromise with his creditors, the said [*merchant*] shall resort to, and recover from the said [*tradesman*] or his estate or any other securities held by the said [*merchant*] so much of the said sum or sums then due as can be obtained or recovered, before requiring payment thereof, or any part thereof, from the said [*guarantor*] (*p*).

5. The liability of the said [*guarantor*] hereunder shall not be affected by any time or other indulgence given to the said [*tradesman*] or by the acceptance by the said [*merchant*] of any negotiable or other securities from the said [*tradesman*] or others in respect of any sum for the time being owing.

6. The said [*merchant*] will at any time during the continuance of this guarantee give the said guarantor if and when requested in writing so to do full and accurate information as to the amount of the indebtedness of the said [*tradesman*] for the time being to the said [*merchant*].

7. This guarantee may be determined at any time by the said [*guarantor*] by payment to the said [*merchant*] of the amount for the time being owing by the said [*tradesman*] up to the limit specified in clause 2 hereof or as to subsequent transactions only by [one] calendar month's notice in writing given by the said [*guarantor*] to the said [*merchant*].

8. This guarantee shall absolutely determine on the death of the said [*guarantor*].

IN WITNESS, &c.

[*Signatures of both parties.*]

107.

GUARANTEE to pay for Particular Goods supplied to a Third Person (*q*).

To Messrs. —— & Co.

IN CONSIDERATION of your having recently agreed to supply [*debtor*] of etc. with articles of [furniture] of the value of £—— on credit I HEREBY GUARANTEE the payment of that sum to you by the said [*debtor*]. This

(*p*) For a form whereby the merchant is entitled to proceed in the first instance against the guarantor, see p. 176, *post*.

(*q*) No stamp.

guarantee is not a continuing guarantee and shall not extend to any goods in excess of the value aforesaid and all payments to you by the said [*debtor*] shall be applied by you towards liquidating the said sum of £——, until the same shall be fully satisfied (*r*). It shall not be necessary for you to take proceedings against the said [*debtor*] before applying to me for payment of the sum for the time being owing and this guarantee shall not be determined by my death (*s*), or any change in the constitution of your firm, or by any time or indulgence given by you to the said [*debtor*].

Dated this —— day of ——.

[*Signature of guarantor.*]

108.

GUARANTEE for Payment of Dividend on Shares in a Limited Company and for Purchase of the Shares within a Fixed Period (*t*).

To [*shareholder*] of &c.

IN CONSIDERATION of your having applied for and been allotted —— shares No. —— to —— inclusive in the ——— Company Limited at our request and having paid to the said company the full nominal amount thereof in cash We the undersigned firm of —— and Co. HEREBY GUARANTEE AND UNDERTAKE that in the event of the said company making default in payment of dividend on such nominal amount or any part thereof at the rate of [5] per cent. per annum by equal half-yearly payments on the —— day of —— and the —— day of —— during [5] years from the date thereof we will pay you the said dividend or so much thereof as the said company shall fail to pay. AND WE FURTHER GUARANTEE AND UNDERTAKE that if within [six] calendar months from the expiration of the period of [5] years from the date thereof the holder of the said shares shall leave at the registered office of the company a written request in this behalf addressed to our firm and duly signed by the said holder and shall within the time aforesaid deliver at the said office a transfer to our firm duly stamped and executed of the shares so allotted to you as aforesaid by the said holder we will within —— days from the date of such request pay to him the full nominal amount of the said shares.

As WITNESS our hands this —— day of ——.

[*Signatures of guarantors.*]

(*r*) The guarantor has not in the absence of express agreement any right to require the creditor to appropriate payments in a particular manner (*Re Sherry, London and County Banking Co.* v. *Terry* (1884), 25 Ch. D. 692, at pp. 704, 705).

(*s*) The death of the guarantor does not *per se* revoke even a continuing guarantee (see *Lloyd's* v. *Harper* (1880), 16 Ch. D. 290, C. A.; *Harriss* v. *Fawcett* (1873), 8 Ch. App. 866); but *semble* his lunacy does (*Bradford Old Bank* v. *Sutcliffe*, [1918] 2 K. B 833).

(*t*) Stamp 6*d*.

109.

GUARANTEE for Payment of Rent and Observance of Covenants under a Lease. Variation when Guarantee is limited to a Fixed Period (*a*).

To [*Landlord*] of &c.

Dated the —— day of ——

IN CONSIDERATION of your having at my request this day granted a lease of [*demised premises*] to [*lessee*] of &c. for a term of [21] years at a rent of £—— such lease being dated of this day's date and made between [*parties*].

I HEREBY GUARANTEE the punctual payment of the rent reserved by and the due performance and observance of the covenants on the part of the said [*lessee*] in the said lease contained and I FURTHER GUARANTEE the payment of all damages, costs and expenses, which by virtue of the said lease or the occupation by the said [*lessee*] of the demised premises may become recoverable from him by you. This guarantee [shall continue for five years from the date hereof, and during that period] shall not be revocable by my death or by reason of any assignment or subdemise of the demised premises [to which you may assent] or the death or bankruptcy of the said [*lessee*].

[*Signature of guarantor.*]

110.

AGREEMENT for Payment of Rent and Performance of Covenants in a Lease by two Guarantors with Unequal Liability (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*first guarantor*] of &c. of the first part [*second guarantor*] of &c. of the second part and [*lessor*] of &c. of the third part.

WHEREAS by a lease dated the —— day of —— and made between the said [*lessor*] of the one part and [*lessee*] of the other part the said [*lessor*] demised the shop warehouse and premises known as —— in the city of —— to the said [*lessee*] for a term of [21] years determinable as therein mentioned at a rent of £[250] and subject to the covenants on the part of the said [*lessee*] and conditions therein contained

AND WHEREAS the said [*lessor*] in fact granted the said lease at the request of the said [*first guarantor*] and [*second guarantor*] (who are hereinafter collectively referred to as the guarantors) and on condition of receiving such guarantee as is hereinafter contained.

(*a*) Stamp 6*d*. Unless otherwise agreed, a guarantee of this kind continues throughout the whole term (*Lloyd's* v. *Harper* (1880), 16 Ch. D. 290, at p. 319). A guarantee of rent "for three months and from week to week thereafter," though no provision is made for its determination by notice, may nevertheless be so determined (*Wingfield* v. *De St. Croix* (1919), 35 T. L. R. 432).

(*b*) Stamp 6*d*.

NOW IT IS HEREBY AGREED as follows :—

1. The guarantors hereby guarantee to the said [*lessor*] the payment of the rent reserved by the lease on the days therein appointed and the due performance and observance of the covenants by the said [*lessee*] therein contained.

2. The aggregate liability of the guarantors to the said [*lessor*] under clause 1 hereof shall not in any case or under any circumstances exceed £[500] of which as between themselves the said [*first guarantor*] shall be liable for not more than £[350] and the said [*second guarantor*] shall be liable for not more than £[150], and any liability of the guarantors under clause 1 hereof shall be borne and paid by them in the like proportions.

[2A. *Or if one guarantor is not to be liable to make good the other's default.* The liability of the said [*first guarantor*] to the said [*lessor*] under clause 1 hereof shall in no case exceed £[350] and the liability of the said [*second guarantor*] under the same clause shall not exceed £[150] but nevertheless if the total liability actually discharged should be less than £[500] the proportion of such liability to be borne by each guarantor shall be ascertained by reference to his individual liability under this clause.]

3. The liability of either of the guarantors under this agreement shall not be affected by any time or indulgence given to the said [*lessee*] or the other of the guarantors by the said [*lessor*] and shall as between themselves and the said [*lessor*] be that of principal debtors.

4. The guarantors shall not in respect of any payment made by them under this agreement have any right on the ground of suretyship or otherwise to stand in the place of the said [*lessor*] so as to compete with him as creditors of the said [*lessee*] unless and until all the claims of the said [*lessor*] under the said lease shall have been fully paid and satisfied.

5. This agreement shall be determinable only as to subsequent liability by [six] months' previous notice in writing expiring on any half-yearly day appointed by the said lease for payment of the said rent given by the guarantors jointly or in the case of the death or bankruptcy of either guarantor by his personal representatives or trustee or by the surviving guarantor.

IN WITNESS, &c.

[*Signatures of all parties.*]

111.

AGREEMENT for Securing the Banking Account of a Firm (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*guaranteeing firm*] of &c. (hereinafter called the guarantors) of the one part and the —— Bank Limited (hereinafter called the creditors) of the other part.

(*c*) Stamp 6*d*., or if under seal 10*s*.

WHEREAS [*debtors*] of &c. carrying on business under the style of —— and Company (hereinafter called the debtors) are indebted to the creditors in the sum of £—— on their current account with the creditors by reason of overdrafts on such account

AND WHEREAS the creditors have threatened to close such account forthwith

AND WHEREAS the guarantors have requested the creditors to continue the said account which the creditors are willing to do upon receiving such guarantee as is hereinafter contained.

NOW THESE PRESENTS WITNESS as follows :—

1. The guarantors hereby guarantee [to the extent hereinafter mentioned] to the creditors the payment of all moneys which now are or may hereafter become due to the creditors from the debtors on the general balance of their account with the creditors including interest, banking charges, and commission, costs, and other expenses which have been or may be incurred by the creditors or become payable in respect of such account or in obtaining payment of the balance aforesaid or of enforcing any securities given or to be given for the same.

2. This guarantee shall be a continuing guarantee [to the extent of £——] and [to that extent] shall cover the whole of the balance which may become due to the creditors from the debtors in respect of such account and may be enforced without regard to the amount received by the creditors from the debtors or any other person or in respect of any other property unless and until the creditors shall have received from all sources the full amount of twenty shillings in the £ on the amount of their claim.

3. This guarantee shall not be discharged by the variation or compromise of any rights of the creditors against the debtor or his property or any other surety or security for the balance of the said account by way of indulgence or granting of time to the debtor or any other surety [or by release of any property for the time being forming a security for the said balance or otherwise.]

4. Payment shall be made of the amount hereby guaranteed within —— days after notice in writing has been despatched by registered post addressed to the guarantors at —— or their last known place of abode together with interest at the rate of £—— per cent. per annum from the date of the expiry of the said —— days.

5. The guarantors shall be bound by any account which, prior to the date of such notice as aforesaid has been settled between the creditors and the debtors.

6. This guarantee shall be enforceable against the guarantors jointly and severally and shall not be discharged by the death of either of them. PROVIDED ALWAYS that the said guarantors or the survivor of them may at any time by [two] calendar months' notice in writing sent by them or him to the creditors at ——, or their last known place of abode, determine

their or his liability hereunder as to all transactions subsequent to the expiry of such notice.

7. This guarantee shall not be affected by the amalgamation, reconstruction or liquidation of the creditors, but shall remain valid and effectual in favour of and may be enforced by action or otherwise by the creditor's successors in business.

8. This guarantee shall not extend to any transactions between the creditors and the debtors subsequent to any change or variation in the members of the debtors' firm of which notice shall have been given to or knowledge acquired by the creditors.

IN WITNESS, &c.

[*Signatures* [*and seals*] *of guarantors.*]

112.

AGREEMENT for Charge of Policies with Guarantee by Sureties and Provisions for Repayment by Instalments (*d*).

THIS INDENTURE is made the —— day of ——, BETWEEN [*borrower*] of &c. (hereinafter called the borrower) of the first part [*sureties*] of &c. (hereinafter called the sureties) of the second part and [*lender*] of &c. (hereinafter called the lender) of the third part

WITNESSETH that in consideration of the sum of £—— (hereinafter called the loan), at the request of the sureties this day paid to the borrower by the lender (the receipt of which by the borrower he and the sureties hereby acknowledge) the borrower and the sureties hereby jointly and severally covenant with the lender, and it is hereby agreed and declared between and by the parties hereto as follows :—

1. The policies of assurance particularised in the Schedule hereto (hereinafter called the policies) which have been deposited with the lender as security for the loan together with the moneys assured by and payable thereunder are hereby charged with the repayment of the loan with interest thereon as hereinafter mentioned and all expenses properly incurred by the lender with reference to the loan or this security.

2. The borrower and the sureties or some or one of them will pay to the lender as and when the same respectively become due,

(1) The loan,

(2) Interest on the loan or the unpaid part of it as hereinafter mentioned,

(3) The premiums, whether ordinary or additional (hereinafter referred to as the premiums) payable for keeping up the policy in accordance with the provisions thereof.

(*d*) Stamp 2*s*. 6*d*. per £100 of the loan (see Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 86 (1) (e) : *Caldwell* v. *Dawson* (1850), 5 Ex. 1).

3. The loan will (subject as hereinafter provided) be repayable as to £—— part thereof on the —— day of —— and thenceforward by equal half-yearly instalments of £—— each on the —— day of —— and the —— day of —— until the loan is fully repaid.

PROVIDED nevertheless that the loan or so much of it as may then remain unpaid shall immediately on demand be repaid to the lender in any of the following events (namely):—

(1) If any instalment, interest or premium is in arrear for more than thirty days after the date on which it becomes payable

(2) If the borrower or any surety shall die or go to reside permanently abroad or shall be adjudicated a bankrupt or have a receiving order made against him [or her] or make arrangements with or call a meeting of his [or her] creditors or commit any act of bankruptcy.

4. The interest on the loan shall be at the rate of [5] per cent. per annum computed from the date of this security and be payable by equal half-yearly payments on the —— day of ——, and the —— day of —— in every year, the first of such payments to be made on the —— day of —— next. But if, and so long as the interest, instalments and premium are respectively paid within thirty days after the dates on which they respectively become due and if and so long as in other respects the provisions of this security are complied with the lender will accept interest on the loan at the reduced rate of [4] per cent. per annum.

5. As between each of the sureties and the lender each surety is to be considered as a principal debtor for all moneys hereby secured so that each surety or his estate shall not be released from any obligations hereby undertaken by him [or her] either by time or any other indulgence being given to the borrower or any other surety or any person claiming under them respectively for payment of the loan, interest, instalment, or premiums or any part thereof respectively or by any other dealing between the lender on the one hand and the borrower or any such other surety on the other hand, or by any other act or omission of the lender or by the release of any security held for the time being by the lender, or by any other matters or thing whatsoever, whereby the same surety as a surety only would but for this present provision be so released or exonerated.

6. The statutory power of sale applicable to this security shall be deemed to authorise the lender at his uncontrolled discretion and without any further consent or authority from the sureties or any of them to surrender [*or if the insurance office is the lender* to cancel] the policies on the terms applicable at the time of such surrender [*or* cancellation] to policies of the like nature in the office granting the policies and apply the surrender value (if any) of the policies in or towards payment of the moneys hereby secured.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

Particulars of policies in the —— Insurance Office on the life of [*assured*] of &c.

No. of Policy.	Date of Policy.	Sum assured.	PREMIUM.	
			Amount.	How payable.

[*Signatures and seals of all parties.*]

113.

AGREEMENT to Secure Promissory Note (*e*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*borrower*] of &c. (hereinafter called the borrower) of the first part [*sureties*] of &c. (hereinafter called the sureties) of the second part and the —— Company, Limited (hereinafter called the company) of the third part.

WHEREAS the company have at the request of the sureties this day advanced to the borrower the sum of £[350], for which he and they have given to the company their promissory note, bearing even date herewith, whereby they have jointly and severally promised to pay the company, or to their order, the sum of £[400] by [ten] equal [quarterly] instalments of £[40] each, the first thereof to be paid on the —— day of —— next, and each of the others to be paid on the —— day of every [third] month following that date till the whole sum of £[400] shall have been fully paid and satisfied with all expenses, if any, attending the same; but in the event of default being made in payment of either of such instalments the whole amount of the said promissory note then remaining unpaid is to become immediately payable.

NOW IT IS HEREBY AGREED as follows:—

1. In consideration of the said sum of £[350] so lent and advanced as aforesaid, the borrower and sureties hereby jointly and severally agree with the company that if default shall be made in payment of any or either of the said instalments as aforesaid by the borrower, the sureties, and borrower, or some or one of them, will pay to the said company by way of interest for every pound, or portion thereof, in arrear, more than —— days, the sum of [1*s.*] per week, or portion of a week, on each of the instalments in arrear. Notwithstanding this agreement, the company

(*e*) Stamp 6*d.*

shall be at full liberty to enforce payment of the whole balance remaining due on the said promissory note at the time of any such default or at any time thereafter, if the company shall think proper so to do.

2. The company shall be at liberty to give to the borrower, or to the sureties, or to any of them, such time for payment of any or either of the said instalments as the company may think fit, and to accept such fines or sums of money for such indulgence as they may consider reasonable, without, in any way, prejudicing their rights, or affecting the liability of the other parties to the said promissory note to pay the sum then remaining due thereon.

3. In case either of the sureties shall, before the said loan shall be fully paid, die or reside out of England more than —— consecutive months, or become bankrupt, or be unable to meet his engagements with his creditors, or suffer any distress or execution to be levied against his goods, chattels, and effects [and not discharge the same within —— days,] then, and in either of such cases, the sureties shall, within —— days next after the happening of any of the said events, find a substitute, to be approved of by the company, to enter into a promissory note and agreement similar to that hereinbefore mentioned for securing the amount then remaining unpaid on the said promissory note, and the borrower and sureties, and each of them shall bear and pay, on demand, all the costs, charges, fines and expenses of and incidental to such substitution, and, in default thereof, the whole amount of the said loan then remaining due shall immediately become payable.

In WITNESS, &c.

[*Signatures of all parties.*]

114.

AGREEMENT for Indemnifying a Guarantor (*f*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*debtor*] of &c. of the one part and [*guarantor*] of &c. of the other part.

WHEREAS the said [*guarantor*] on or about the —— day of —— instant became guarantor to the —— Banking Company at —— aforesaid, for securing the floating balance of the banking account of the firm of the said [*debtor*] not exceeding, in the whole, the sum of £——

AND WHEREAS before giving the said guarantee the said [*guarantor*] stipulated that the said [*debtor*] should indemnify him against all liability in respect thereof.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*debtor*] will at all times hereafter keep the said [*guarantor*] indemnified against all actions, costs, claims, and demands, in respect of the said guarantee and the liability of the said [*guarantor*] thereunder.

2. The said [*debtor*] as beneficial owner hereby charges ALL THAT [freehold] dwelling-house, with the outbuildings and gardens thereunto

(*f*) Stamp 1*s.* for every £100 as an equitable mortgage.

belonging, situate, &c., and known as [*or* the share and interest of the said [*debtor*] of and in the residuary estate of [*testator*] of &c. deceased by virtue of his will dated the —— day of ——] [subject nevertheless to a mortgage dated the —— day of —— and made between [*parties*] and the principal moneys and interest thereby secured] with the payment of all such sums of money, costs, damage and losses as the said [*guarantor*] his executors or administrators may pay, sustain, or incur by reason or in respect of the said guarantee (*g*).

3. The said [*debtor*] will, at his own expense, in all things, when thereunto required by the said [*guarantor*], forthwith execute and deliver to him or his executors or administrators such a good and effectual mortgage of the said property as he or they shall reasonably require.

4. The said [*guarantor*] will not withdraw the said guarantee except in the cases hereinafter mentioned, without first giving the said [*debtor*] —— calendar months' notice, in writing, of his intention so to do, nor wilfully do any act whatever to induce or cause the said banking company either to require or enforce payment of any sum which shall or may be now due or which may hereafter become due from the said [*debtor*], to such company, or to prejudice the said [*debtor*] or his credit in any other way or matter, to which the said guarantee shall or may relate.

PROVIDED that if the floating balance due from the said [*debtor*] to the said banking company shall at any time exceed the limit of the said guarantee, or if the said [*debtor*] shall commit any act of bankruptcy or make or attempt to make any arrangement with his creditors the said [*guarantor*] may withdraw the said guarantee on giving the said [*debtor*] —— days' notice of such his intention, but such withdrawal shall not prejudice the rights of the said [*guarantor*] hereunder.

IN WITNESS, &c.

[*Signatures of both parties.*]

115.

AGREEMENT for Securing Guarantors Against Loss (*h*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*debtor*] of &c. of the first part [*first surety*] of &c. of the second part and [*second surety*] of &c. of the third part.

WHEREAS the said [*debtor*] is indebted to [*creditors*] [trading as —— of &c.] in the sum of £—— and being unable, at present, to pay the same, has obtained further time for such payment by procuring the said [*sureties*] to execute with him a joint and several promissory note for the same, payable at —— months' date, with interest thereon, at the rate of £—— per cent. per annum during that period

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(*g*) This charge should be registered as an equitable charge under the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (1), Class C. (iii).

(*h*) Stamp 1*s.* for every £100 secured as an equitable charge.

AND WHEREAS the said [*sureties*], at the request of the said [*debtor*] and for the purpose of enabling him to procure the means of discharging the said debt, agreed to join him in such security as his sureties, on the express condition of his entering into the agreement hereinafter contained.

NOW THESE PRESENTS WITNESS as follows :—

1 In consideration of the said [*sureties*] having this day signed the said promissory note, as such sureties as aforesaid, the said [*debtor*] hereby agrees with them that, in the event of his not being able, or failing to discharge the said debt, or otherwise satisfy the same, so as to retire the said security within the period of —— calendar months (*i*) from the date hereof, he will whenever thereafter required by them, and at his own expense in all things, execute and deliver a valid and effectual mortgage to them of the dwelling-house and offices known as —— now in his occupation, for securing the said sum of £—— and interest thereon after the rate aforesaid (*k*).

2. The said [*debtor*] will not, in the meantime, execute, or agree to execute, any other security or charge whatever of or upon the said premises to any other person or persons whomsoever or do any other act whatever prejudicial to the rights or interests of the said [*sureties*] conferred by these presents.

3. In the event of any other creditor or creditors of the said [*debtor*] taking [or threatening to take] any legal proceedings against him within the period last aforesaid, he will forthwith at his own expense execute and deliver to the said [*sureties*] the security hereinbefore mentioned, which security shall be in such form and shall contain all such usual and proper covenants, powers and clauses as are inserted in securities of a like or similar nature.

IN WITNESS, &c.

[*Signature of the debtor.*]

HIRING AND HIRE PURCHASE.

116.

AGREEMENT for Hiring Furniture by a Tenant (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. of the one part and [*tenant*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*landlord*] will let unto the said [*tenant*] ALL the household furniture [linen, china, pictures], goods, chattels, effects and things

(*i*) This date should be shorter than that of the promissory note, so as to give the sureties time to obtain their security and to realise it, before the promissory note arrives at maturity.

(*k*) This agreement should be registered as an equitable charge under the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (1), Class C. (iii).

(*l*) Stamp. Bond covenant, etc., duty *ad valorem* of the total amount payable (*National Telephone Co.* v. *Inland Revenue Commissioners*, [1900] A. C. 1).

comprised in the schedule hereunder written, and now in [*or* on or before the —— day of —— to be placed in] the dwelling-house, offices and outbuildings occupied by the said [*tenant*], situate at ——, FOR the term of one year from the —— day of —— next AT the yearly rent of £—— payable quarterly in advance on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— the first payment to be made on the —— day of —— next.

2. The said [*landlord*] will replace, on request, with articles sound, well seasoned and of good [and fashionable] quality, such part of the said furniture, effects, and things as shall be either worn out, destroyed or damaged by fire, storm, tumult, damp or dry-rot, or by the reasonable use and wear thereof be rendered unfit or unsuitable for the use of the said [*tenant*].

3. The said [*tenant*] will pay the said rent, without any deduction, keep the said furniture, effects and things clean and in good order and condition (in which he admits the same now to be), and preserve the same from injury, except such as may be occasioned by fire, tumult, accident, damp, dry-rot and the reasonable use and wear thereof, and deliver up the said effects and things to the said [*landlord*] or to such person as he shall, by writing, appoint, at the end of the tenancy, in a proper state of repair, clean, and in good condition, except as aforesaid.

4. The said [*tenant*] will not remove all or any part of the said furniture, effects and things to any other place or places without the consent, in writing, of the said [*landlord*] [*or if removal is permitted*, without giving the said [*landlord*] —— days' previous notice thereof, and of the place or places to which it is intended to remove the same] nor, without such consent, underlet or otherwise part with the possession thereof, or of any of them, to any other person or persons whomsoever, unless by law (*m*) required so to do.

[4A. The said [*tenant*] shall pay to the said [*landlord*] all premiums and other moneys which the said [*landlord*] shall expend in keeping the said furniture, effects, and things duly insured during the tenancy.]

5. In case the said furniture, effects and things, or any of them, shall be negligently, or wilfully destroyed or rendered useless by the said [*tenant*], his family, friends, visitors or servants, the said [*tenant*] will, within —— days next after such destruction or damage respectively, either replace them with similar articles of equal value, or pay unto the said [*landlord*] the full value of such of them as shall be so destroyed, or damaged, according to the prices set forth in the schedule hereunder written.

6. In case the said furniture and effects, or any of them, shall be destroyed by fire, storm or tumult, or shall be unfit or unsuitable as afore-

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(*m*) They may be taken under an execution against the landlord. The property in hired goods cannot be taken in execution by a creditor of the hirer (*Jones Bros. (Holloway)* v. *Woodhouse*, [1923] 2 K. B. 117), but the hirer's interest therein may be seized and sold (*Legg* v. *Evans* (1840), 6 M. & W., at p. 42; *Dean* v. *Whittaker* (1824), 1 C. & P. 347).

said, the said rent, or a fair and just proportion thereof, shall cease until others of such quality as aforesaid shall have been substituted.

7. The hiring may be determined at any time after the said —— day of —— by either party on giving to the other of them —— calendar months' notice in writing, for that purpose, and the said [*tenant*] shall pay a proportionate part of the rent accruing between the last quarterly payment and the expiration of such notice.

8. In case the said rent shall be in arrear for —— days, or if the said [*tenant*] shall become bankrupt, of shall file any petition under the Bankruptcy Laws, or shall make any assignment of his effects for the benefit of his creditors, or shall suffer the said furniture effects and things to be seised or taken in execution, or shall, without the consent in writing of the said [*landlord*] underlet, or part with the possession [and control] of the said furniture effects and things or any of them, or shall remove, or attempt to remove the same from —— aforesaid, or shall refuse to allow the said [*landlord*] to inspect the same after —— hours' request [being made in writing] for that purpose, then, and in any of the said cases, the said [*landlord*] shall be at full liberty at any time or times thereafter, to resume the full and actual possession thereof, wheresoever the same shall then be, without being liable for any damage occasioned thereby, and thereupon the hiring hereby created shall cease, but without prejudice to any right of action which may have then accrued to either of the said parties under these presents.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Inventory of furniture with values.*]

[*Signatures of both parties.*]

117.

AGREEMENT for Hiring Chattels to the Grantor of an Absolute Bill of Sale (*n*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 116, p. 183, *supra*].

(*n*) Stamp, see p. 183, note (*l*), *ante*. Sect. 20 of the Bills of Sale Act, 1878 (41 & 42 Vict. c. 31), which enacts that chattels comprised in a registered bill of sale are not to be deemed to be in the order and disposition of the grantor is not repealed by s. 15 of the Bills of Sale Act (1878) Amendment Act, 1882 (45 & 46 Vict. c. 43), so far as regards *absolute* bills of sale (*Swift* v. *Pannell* (1883), 24 Ch. D. 210; Halsbury's Laws of England, title "Bills of Sale," vol. 3, p. 60). In the case of an ordinary sale and delivery of chattels followed by a reletting thereof to the vendor on a hire-purchase agreement containing a licence to seize them on the vendor's default in paying the hire instalments, if it appears that the transaction was not genuine but intended to cloak a loan of money, the agreement, not being registered as a bill of sale under the Bills of Sale Act, 1882, is void (*Maas* v. *Pepper*, [1905] A. C. 102); *aliter*, if there is a real sale and a real reletting (*Johnson* v. *Rees* (1915), 84 L. J. K. B. 1276; *British Railway Traffic and Electric Co.* v. *Kahn*, [1921] W. N. 52.

WHEREAS, under or by virtue of a bill of sale, dated the —— day of —— the stock-in-trade [*or* farming stock and implements], furniture, goods, chattels and effects comprised in the inventory thereto (all of which shall be deemed to be hereinafter comprised in the word effects,) now belong to and are the sole and absolute property of the said [*landlord*], who has full possession thereof

AND WHEREAS the said [*tenant*], being the tenant of the dwelling-house, [*or* farm], outbuildings and premises wherein and whereon the same are under a tenancy expiring on the —— day of —— has requested the said [*landlord*] to let to him the said effects on hire until the expiration of such tenancy.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*landlord*] hereby agrees to let the said effects on hire, to the said [*tenant*], from the date hereof, when full possession thereof will be delivered, until the —— day of —— 19--, at a rent after the rate of £—— per annum.

2. The said [*tenant*] shall peacefully hold possession thereof during the hiring hereby created, on his duly performing the agreements on his part herein contained, but subject, nevertheless, to the conditions herein expressed [*if the tenant is to sell out and convert the stock in-trade,* and as agent for, and on behalf of the said [*landlord*], shall be at liberty to sell and convert any part or parts of the said stock-in-trade either wholesale or retail ; and will, when and as often as requested, in writing, by him, duly account for, and pay to the said [*landlord*] the proceeds thereof and, at the expiration of the said tenancy, or earlier if required, [*or,* when required by the said [*landlord*]] deliver up to the said [*landlord*] all such parts of the said stock-in-trade as shall not have been so sold as aforesaid].

3. The said [*tenant*] hereby agrees with the said [*landlord*] as follows :—

(*a*) To take and rent the said effects accordingly, and duly pay the said rent, clear of all deductions, by equal half-yearly payments of £—— in every year the first such payment to be made on the —— day of —— next.

(*b*) To keep the said effects clean and in good order and condition, and preserve the same from loss and injury, reasonable wear and tear thereof excepted, and forthwith to repair and replace, with others of equal or greater value and similar patterns, all such, if any, of them, as shall be accidentally, negligently or wilfully destroyed or damaged, or pay the said [*landlord*] the full value thereof such value to be ascertained by Mr. —— of, &c., he having reference to the invoices or cost prices of such articles and things respectively.

(*c*) To peaceably deliver up to the said [*landlord*], or to such person as he shall appoint, at the expiration of the tenancy, the whole of the said effects in proper repair, and thoroughly clean and in good condition.

(*d*) To insure the said effects in the name of the said [*landlord*] against loss or damage by fire [or burglary] to the amount of £—— and pay all premiums payable thereon and deliver such policy to the said [*landlord*] within —— days from the date hereof and the receipts for the said premiums within —— days after the same ought to be paid.

(*e*) Not, without the consent of the said [*landlord*] in writing, to part with possession of or remove or attempt to remove the said effects, or any of them, or any part thereof, out of or from the said dwelling-house, outbuildings and premises, or remove such as are affixed thereto [except such as shall be sold in the course of trade as aforesaid].

4. If the said [*tenant*] shall become bankrupt, or shall file any petition under the bankruptcy laws or shall fail to perform the stipulations hereinbefore contained or any of them, then, and in any of such cases, the hiring hereby created shall thenceforth cease, and it shall be lawful for the said [*landlord*] or his agent and others duly authorised in writing by him, to resume possession of the [said stock-in-trade or of such as shall then be on the said premises, and also of the] said effects and for that purpose to enter the said dwelling-house, outbuildings and premises.

[4A. The said [*tenant*] shall be allowed to deduct and retain for his own benefit, or the said [*landlord*] shall pay him, a commission of —— per cent. on all the stock-in-trade so sold by him as aforesaid, on his duly accounting as aforesaid for the proceeds.]

IN WITNESS, &c.

[*Signatures of both parties.*]

118.

AGREEMENT for Hire Purchase of a Pianoforte (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*piano-dealers*] of &c. (hereinafter called the owners) of the one part and [*hirer*] of &c. (hereinafter called the hirer) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The owners will let and the hirer will hire (*p*) a grand [*or* horizontal grand *or* cottage] pianoforte made by [*manufacturers*] and numbered —— for the term of —— years from the date of this agreement on the terms following.

2. During the continuance of the hiring the hirer will pay to the owners the sum of £—— per quarter in advance the first payment to be

(*o*) Stamp 6*d.* or if under seal 10*s.* (see Finance Act, 1907 (7 Edw. 7, c. 13, s. 7)).

(*p*) If the hirer wrongfully refuses to accept delivery of the chattel, the owners cannot recover the hire instalments accrued due at the commencement of the action but only damages for breach of agreement (*National Cash Register Co.* v. *Stanley*, [1921] 3 K. B. 292).

made on the execution hereof and subsequent payments to be made at regular intervals of three calendar months.

3. Upon payment by the hirer of [16] quarterly payments of £—— each to the owners the said pianoforte shall become the absolute property of the hirer but until such payment shall remain the property of the owners.

4. During the continuance of the hiring the hirer shall—

(*a*) Keep the said pianoforte in good repair and condition [and properly tuned] and not allow the same to be improperly used or neglected. All repairs necessary shall be done by the owner's servants at the hirer's expense.

(*b*) Not remove the said pianoforte from his present residence No. —— in the county of —— except with the previous written consent of the owners or part with the custody of the said pianoforte.

(*c*) Permit all servants of the owners to have access to and inspect the said pianoforte at all reasonable times, every such servant producing to the hirer a card signed by the owners or their manager authorising him to inspect such pianoforte.

(*d*) Punctually pay all rent taxes and rates payable in respect of the hirer's residence and produce the receipts therefor to the owners or their manager on demand.

[4A. During the continuance of the hiring the owners will procure the said pianoforte to be properly tuned by their servants at least once in every three calendar months without further charge to the hirer and the hirer shall not allow any person except a servant of the owners to tune the said pianoforte.]

5. The hirer may determine the hiring at any time by requiring in writing the owners to remove the said pianoforte at his risk and cost and paying up all payments which at the date of such removal have accrued due hereunder.

6. The owners may determine this agreement and take possession of the said pianoforte and for that purpose enter upon any premises on which the same shall be if default is made for [7] days in payment of any instalment of £—— after the same is due of if the hirer commits any breach of any stipulation hereby made binding upon him (*q*).

7. The determination of the hiring by either party shall not affect the right of the owners to recover from the hirer all hire instalments which

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(*q*) This clause will not protect the chattel from the landlord's distress for rent of the premises, unless it has been actually retaken previously to the distress, since the agreement is still alive so far as it gives the owners the right to retake the chattel and for this purpose to enter any premises where it is, and therefore the chattel is still "comprised in a hire-purchase agreement" (provided the tenant is the hirer: *Rogers, Eungblut Co.* v. *Martin*, [1911] 1 K. B. 19) within s. 4 of the Law of Distress Amendment Act, 1908 (8 Edw. 7, c. 53): *Hackney Furnishing Co.* v. *Watts*, [1912] 3 K. B. 225; *Jay's Furnishing Co.* v. *Brand & Co.*, [1915] 1 K. B. 458; and see Halsbury's Laws of England, vol. 1, p. 555.

shall have accrued due at the date of such determination [and damages for the breach of this agreement] (*r*).

IN WITNESS, &c.

[*Signatures of both parties.*]

119.

AGREEMENT for Hire Purchase of Furniture where a Sum of Money is Paid for the Option of Purchase (*s*).

AN AGREEMENT made the —— day of —— BETWEEN [*owners*] of &c. (hereinafter called the owners) of the one part and [*hirer*] of &c. (hereinafter called the hirer) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The owners will let and the hirer will hire the furniture chattels and effects specified in the Schedule hereto (hereinafter called the said effects) on the terms hereinafter contained.

2. Until the determination of the hiring the hirer shall pay to the owners the sum of £—— on the [1st] day of every calendar month in advance the first such payment to be made on the execution of this agreement.

3. The hirer having paid to the owners a sum of £—— as consideration for the option hereinafter mentioned (the receipt whereof the owners hereby acknowledge) shall have the option of purchasing at any time before the said hiring shall be determined the said effects for the sum of £——. If the option shall be exercised the owners shall give credit against the said purchase price of £—— for the said sum of £—— so paid as aforesaid and also for all sums which shall have been paid by way of hire up to the date of the exercise of such option. But the hirer shall not be entitled to repayment of the said sum of £—— or any sum paid by way of hire unless he shall exercise such option. Until such option shall be exercised the said effects shall be the property of the owners.

4. During the said hiring the hirer will—

(*a*) Punctually pay the said monthly sums of £—— each.

(*b*) Keep the said effects in good and substantial repair and condition, reasonable wear and tear excepted, and replace any of the said effects destroyed or damaged by fire with articles of equal value.

(*c*) Not part with possession of the said effects or any of them or if he shall wish to remove the same from the place where they are for the time being give notice to the owners of the place and time of such removal.

(*d*) Keep the said effects insured in the sum of £—— at least with the —— Insurance Society in the owner's names and deliver

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(*r*) But even without this stipulation seizure will not preclude the owners from suing for arrears of hire (*Brooks* v. *Beirnstein*, [1909] 1 K. B. 98).

(*s*) Stamp : see p. 187, note (*o*), *ante*.

the said policy forthwith to the owners and pay all premiums and other sums requisite for keeping such insurance on foot and produce the receipts for all such payments on demand.

(*e*) Not sell, pledge or otherwise deal with the said effects or any of them in a manner prejudicial to the owner's rights.

(*f*) Permit the owners at all reasonable times to have access to the said effects and inspect the condition thereof.

(*g*) Punctually pay all rents, rates, and taxes, payable in respect of the premises whereon the said effects shall for the time being be situate and produce all receipts for such payments to the owners on demand.

(*h*) Protect the said effects against distress, execution, and seizure and indemnify the owners against all loss, costs, and damage accruing to them by reason thereof.

(*i*) Peaceably deliver up possession of the said effects to the owners on the determination of the hiring.

5. The hirer may determine the hiring by notice in writing to the owners at their last known place of address and by returning the said effects to the owners at his own expense and risk at such last known place of address.

6. The owners may determine this agreement—

(*a*) If the hirer shall make default for [7] days in payment of any monthly sum payable hereunder.

(*b*) If a receiving order shall be made against the hirer or he shall compound with his creditors.

(*c*) If any execution or distress shall be levied against the hirer.

(*d*) If the hirer shall commit any breach of any stipulation binding on him hereunder.

(*e*) If the owners shall at any time after the expiration of one year from the date hereof give the hirer [three] months' notice in writing to purchase the said effects and the hirer shall not purchase the same within [7] days after the expiration of such notice.

The owners may if they shall determine this agreement enter upon any premises whereon the said effects may be situate and if necessary break open any doors, gates, or windows for the purpose of such entry without being liable to the hirer for trespass damage or otherwise (*t*)

7. [*Clause as to effect of determination as in Form* 118, *clause* 7, p. 188, *supra*.]

8. Each of the said effects shall have affixed thereto a plate of small size and placed in an inconspicuous position containing a statement that the article in question is the property of the owners and during the con-

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(*t*) See note (*q*), p. 188, *supra*. As to breaking open a locked door, see *Weiner (Bert.)* v. *Phillips (H. B.) (Belfast), Ltd.* (1914), 49 I. L. T. 205; C. A.

tinuance of the hiring the hirer shall not destroy, remove, obliterate or cover up the said plate or the inscription thereon.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Inventory of effects.*]

[*Signatures of both parties.*]

120.

AGREEMENT for Hire Purchase of a Motor-car (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the owner) of the one part and [*hirer*] of &c. (hereinafter called the hirer) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The owner will let and the hirer will hire a —— horse-power [landaulette] [4] cylinder motor-car made by [*manufacturer*] (hereinafter called the car) for the term of [two] years on the terms hereinafter contained.

2. The hirer shall pay to the owner on the execution of this agreement the sum of £—— and on the —— day of every calendar month during the hiring shall pay to the owner £—— by way of hire for the said car.

3. The hirer shall at any time during the hiring have the option of purchasing the said car for £—— and if such option is exercised the hirer shall be entitled to be allowed as part payment of the said purchase price of —— all payments then already made by way of hire and the said sum of £—— to be paid on the execution hereof. Until the said purchase price of £—— is paid in full the car shall remain the property of the owner.

4. During the hiring the hirer will—

(*a*) Keep the said car and all parts thereof, and tyres, hoods, mudguards, cushions, lamps, and other fittings and accoutrements thereof in good repair and condition and in good working order.

(*b*) Allow no one but a skilled chauffeur or driver [possessing a certificate of efficiency issued by the Automobile Association or other competent examining body] to drive the said car and to employ only skilful and efficient mechanics to effect repairs to the said car

(*c*) Keep the said car insured against fire, theft, collision and damage with the —— Insurance Society in the sum of £—— at the least and pay all sums necessary to keep such insurance on foot and produce the policy and receipts for all such sums to the owner on demand.

(*a*) Stamp: see p. 187, note (*o*), *ante*.

(*d*) Provide a safe and suitable garage for the car and except when touring to keep the car therein.

(*e*) Not take the car out of the United Kingdom without the consent of the owner.

(*f*) Not convey the car on any boat, railway, or other conveyance, except at the risk of the boat or railway company or other carrier.

(*g*) Not travel more than —— miles in any calendar month in the car.

(*h*) Give immediate notice to the owner of any serious damage or injury to the car.

(*i*) Not assign, pledge, sublet, or part with the possession of the car to any other person or persons.

(*j*) Permit the owner or his servants to have access to the said car at reasonable intervals to inspect the condition thereof.

(*k*) Pay all fines, payments for licences, and all other charges made in respect of the car.

(*l*) Protect the car from distress, execution and seizure and indemnify the owner from all loss, damage, and expenses arising thereout.

(*m*) Indemnify the owner from all claims arising out of accidents either to persons or vehicles caused by the car or the driver thereof.

(*n*) Peaceably deliver up to the owner possession of the car in good condition and working order at the determination of the hiring.

5. [*Power of the hirer to determine as in Form* 119, *clause* 5, p. 190, *supra, substituting* the car *for* the said effects.]

6. [*Power to the owner to determine as in Form* 119, *clause* 6, p. 190, *supra, substituting where necessary* the car *for* the said effects.]

7. [*Clause as to effect of determination as in Form* 118, *clause* 7, p. 188, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

INVENTIONS.

121.

AGREEMENT for Sale of a Secret Process (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchasers*] of &c. (hereinafter called the purchasers) of the other part.

WHEREAS the vendor has represented to the purchasers that he has discovered and is solely entitled to a secret process for the manufacturing [*coal blocks*], and has for some time past manufactured the same —— under the said process.

(*b*) Stamp. *Ad valorem* on the cash payment and 10*s.* in respect of the unascertained royalties (Stamp Act, 1891, s. 4 (*b*)).

NOW IT IS HEREBY AGREED as follows :—

1. The vendor will sell and the purchasers will buy the full and exclusive benefit of the said secret process, and the like benefit of all improvements which may hereafter be made in the said process, and the sole and exclusive right licence and authority to use and exercise the said process and improvements and to carry on the said manufacture thereunder and also the goodwill of the business heretofore carried on by the vendor in connection therewith for the term of [7] years from the —— day ——.

2. Immediately after the execution of this agreement the vendor will deposit at the —— bank in the joint names of himself and the purchasers a sealed envelope containing a full description and specification of the said process and of the nature, qualities and amount of the ingredients and materials used therein and full instructions as to the manner of using the same.

3. The purchasers shall on the said —— day of —— pay to the vendor the sum of £[100] and upon such payment the vendor will sign a proper authority to the said bank to deliver the said envelope to the purchasers. If the said sum shall not be paid on the said —— day of —— or within [one] month thereafter the vendor may by notice in writing determine this agreement and thereupon the purchasers shall sign a proper authority to the said bank to deliver the said envelope to the vendor.

4. Upon payment of the said sum of £[100] the vendor will at the cost of the purchasers execute such assignments and other instruments as shall be necessary or proper to give effect to this agreement and shall give full information, explanations and demonstrations to the purchasers and their servants (not exceeding three in number) as shall enable them to manufacture the said [coal blocks] satisfactorily according to the said process, and shall further deliver to the purchasers a list of the names of all his customers and agents in the said business and shall at the request and cost of the purchasers notify such customers and agents of the transfer of the said business.

5. The vendor shall covenant with the purchasers as follows :—

(i) Not at any time during the said term to be engaged directly or indirectly in the manufacture on account of any person or company of the said [coal blocks] or any colourable imitation thereof or any other [coal blocks] manufactured according to the said process, nor except for the purpose of disposing of any stock in hand on the said —— day of —— sell or dispose of the said [coal blocks] or any colourable imitation thereof or any other [coal blocks] manufactured according to the said process except on account of the purchasers, nor permit such [coal blocks] to be sold by his agents nor by any act or omission on his part deprive the purchasers of the full benefit of the said process or interfere or prejudice the success of the said manufacture or business.

(ii) During the said term to give to the purchasers such further advice and instructions respecting the said process and manufacture as they may reasonably require.

(iii) Not at any time during the said term without the written consent of the purchasers to disclose or communicate the said process or any part thereof to any person whatsoever, or make any use of the same except for the sole benefit of the purchasers.

(iv) To use such precautions during the said term with regard to the said secret and the custody thereof that in the event of his death the secrecy thereof may so far as possible be preserved during the said term for the sole benefit of the purchasers.

6. The purchasers shall covenant with the vendor as follows :—

(i) To pay to the vendor on the —— day of —— and the —— day of —— in each year during the said term for every [1000] of the said [coal blocks] manufactured by them during the half-year immediately preceding at the following rates, namely : —If the quantity manufactured during such half-year shall not exceed [10,000] the sum of —— shillings per thousand and if the quantity manufactured during such half-year shall exceed [10,000] but shall not exceed [30,000] the sum of —— shillings per thousand for the first [10,000] and —— shillings for every thousand exceeding [10,000] and if the quantity manufactured shall exceed [30,000] in any half-year the sum of —— shillings for every thousand manufactured. The first payment of such royalty shall be made on the —— day of —— or on such half-yearly day as shall first happen after any quantity of the said [coal blocks] shall have been manufactured pursuant to the licence hereby granted.

(ii) At all times during the said term to keep correct and particular accounts of all [coal blocks] manufactured by them according to the said secret process so as to show on the —— day of —— and the —— day of —— in every year the royalty payable to the vendor to deliver to the vendor copies of the said accounts and to permit the vendor and any agent authorised by him at all reasonable times to inspect the purchasers' books of account and to furnish such information and vouchers as may be necessary to test the accuracy of the said accounts. Each half-yearly account unless objected to within [four] weeks succeeding the day on which such account shall have been delivered shall be binding and conclusive on the parties hereto and shall not be re-opened or objected to on any ground whatever.

(iii) To use all due diligence in carrying on and conducting the said manufacture and not during the said term to manufacture or sell or cause or permit to be manufactured or sold any [coal blocks] not manufactured according to the said process.

(iv) To manufacture the said [coal blocks] according to the directions contained in the said sealed envelope and not to make any alteration from the specification and description therein contained without the written consent of the vendor.

(v) Not to sell the said [coal blocks] except under the title of ——'s [coal blocks].

7. The purchasers shall at any time during the said term have full liberty to sell and dispose of the benefit of the said secret process, right of manufacture and goodwill for the residue of the said term subject to the payment to the vendor of the said royalty, and the observance by every purchaser of the terms of this agreement, but before selling or disposing in manner aforesaid the purchasers shall by six months' previous notice in writing give the vendor the option of requiring a transfer of the said process right of manufacture and goodwill to him upon the terms of his releasing the purchasers from all further liability to him to pay the said royalty pursuant to this agreement. If the vendor shall require such transfer the purchasers shall deliver to him all books and papers relating to the same and a list in writing of all customers and agents of the purchasers in connection with the sale and disposal of the said [coal blocks] and shall at the request and cost of the vendor re-assign the benefit of the said process right of manufacture and goodwill to him and enter into a bond of £—— to preserve the secrecy of the said process at all times after such transfer.

8. If the purchasers shall require a renewal of the benefit of the said process right of manufacture and goodwill for the further term of [7] years from the expiration of the term hereby granted the vendor will if all royalties payable hereunder shall have been duly paid and the purchasers shall have duly observed all stipulations binding on them hereunder assign the said process right of manufacture and goodwill to the purchasers for the further term of [7] years at the same royalty and subject to the same stipulations and agreements (or such thereof as shall then be applicable) as are herein contained except the agreement in this clause contained.

9. If the vendor shall refuse or neglect to specify and explain to the purchasers the nature of the said process or to give such advice and instruction as is hereinbefore mentioned or refuse or neglect to deliver to the purchasers the names and addresses of his customers, agents and other connections in the said business, or shall at any time during the said term be engaged directly or indirectly in the manufacture or sale of the said [coal blocks] or any colourable imitation thereof or any other [coal blocks] manufactured according to the said process on account of any person other than the purchasers or cause or permit the same to be sold (except so far as may be necessary to dispose of stock existing on the —— day of ——) or shall disclose the nature of the said process or any part thereof to any person except with the purchasers' consent or make any use of the said process without such consent then and in any such event and so often as the same may happen, the vendor shall pay to the purchasers £—— as liquidated damages and not as a penalty without prejudice to the remedies by injunction or otherwise available to the purchasers.

10. If any dispute shall arise between the parties hereto touching these presents or the construction or operation thereof or the rights, duties or liabilities of either party hereunder such dispute shall be referred to two arbitrators, one to be appointed by each party or their umpire [such arbitrators and umpire being previously sworn to secrecy as regards the said process], and such arbitration shall in all respects conform to

the provisions of the Arbitration Act, 1889, or any subsisting modification or re-enactment thereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

122.

AGREEMENT for Sale of an Invention Provisionally Protected (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 121, p. 192, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchasers will buy all that invention for [*specify nature of invention*] of which the vendor claims to be the true and first inventor and in respect whereof the vendor has already obtained provisional protection within the United Kingdom and the Isle of Man under number —— and date the —— day of ——.

2. The purchase price of the said invention shall be £—— to be paid by the purchasers to the vendor upon the execution to the purchasers by the vendor of a proper assignment of valid letters patent to be granted in respect of the said invention such assignment to be prepared and perfected save as to the execution thereof by the vendor at the expense of the purchasers.

3. The vendor shall on or before the —— day of —— at his own expense [*or* at the expense of the purchasers] file a proper specification of the said invention and endeavour to obtain letters patent for the same.

4. If the vendor shall not obtain letters patent in respect of the said invention on or before the —— day of —— this agreement shall become void [but the purchasers shall not be liable to repay to the vendor any moneys expended in endeavouring to obtain such letters patent as aforesaid] (*d*).

5. This agreement shall apply only to patent rights in the United Kingdom and the Isle of Man. [*Or* The purchasers shall have the option of purchasing all colonial and foreign rights in the said invention for the further sum of £——, such option to be exercised by notice in writing to the vendor on or before the —— day of ——. If such option shall be exercised the vendor shall execute and do all instruments, acts and things necessary or proper to procure the grant of patents or protection for such

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(*c*) Stamp. *Ad valorem* conveyance duty. As to patents generally see the Encyclopædia of Forms, 2nd. Edn. vol. 11, pp. 588 *et. seq.*

(*d*) Without this provision for the avoidance of the agreement the purchasers might be in a position to take a grant of the patent, notwithstanding the default of the vendor : see Patents and Designs Acts, 1907 and 1919, s. 12 (1) ; and as to the power of the Court to vest the legal estate in an equitable assignee of a patent, see *re Heath's Patent* (1912), 56 S. J. 538. The above-mentioned Acts are printed in combined form by H.M. Stationery Office.

invention in such colonies and foreign countries upon being duly indemnified by the purchasers against all costs and expenses in respect thereof.]

IN WITNESS, &c.

[*Signatures of both parties.*]

123.

AGREEMENT for Sale of a Patented Invention (*e*).

THIS AGREEMENT made the —— day of —— – BETWEEN [*vendor*] of &c. of the one part and [*purchaser*] of &c. of the other part.

WITNESSETH as follows :—

1. The said [*vendor*], who is the grantee of letters patent for the United Kingdom and the Isle of Man, dated the —— day of —— 19—, and numbered ——, for the sole and exclusive licence, power, privilege and authority of making, using and vending during the term of years therein mentioned, an invention for [*state the purpose of the invention*], hereby agrees to sell absolutely to the said [*purchaser*], who hereby agrees to purchase at the price of £——, ALL THAT the said invention, patents, patent-rights and interest whatsoever of him the said [*vendor*] TOGETHER with all rights, powers, authorities, privileges, advantages and profits whatsoever thereto belonging, or in anywise incident or appertaining. In confirmation of such sale, the said [*purchaser*] has, upon the execution hereof, paid the said [*vendor*] the sum of £—— by way of deposit on the said purchase-money, the receipt whereof the said [*vendor*] hereby acknowledges.

2. The said [*vendor*] agrees that he will, at any time hereafter, on payment of the remainder of the said purchase-money, and at the request of the said [*purchaser*], execute a valid and an effectual transfer, or other assurance (*f*) of the said invention, patents patent-rights, interest and

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(*e*) Stamp. *Ad valorem* conveyance duty.

(*f*) An assignment of letters patent must *semble* be by deed, as the clause in letters patent forbidding the use of the invention runs :—" without the consent, licence, or agreement of the said patentee in writing under his hand *and seal.*" Instruments not under seal operate as equitable assignments and a parol agreement to assign will be specifically enforced (Encyclopædia of Forms, 2nd. Edn. vol. 11, p. 600). Notification of the assignment must be registered under s. 71 (1) of the Patents and Designs Acts 1907 and 1919 ; and see Patents Rules, 1920, rr. 86 *et seq.* No unregistered document can be put in evidence in proof of the title to a patent or any interest therein unless the Court otherwise directs (Patents and Designs Acts, 1907 and 1919, s. 71 (4)), except on an application to rectify the register under s. 72. Registration with notice of a prior equitable title gives no priority : *New Ixion Tyre Co.* v. *Spilsbury*, [1898] 2 Ch. 484. As to the effect of an exclusive licence for a limited time and area, see *Heap* v. *Hartley* (1889), 42 Ch. D. 461. A registered assignee of a patent who mortgages it may sue for an infringement without joining the mortgagee : *Van Gelder, &c.* v. *Sowerby Bridge, &c., Society* (1890), 44 Ch. D. 374. As to rights of assignees *inter se*, see *Steers* v. *Rogers*, [1893] A. C. 232, and as to a grant of letters patent to two persons see Patents and Designs Acts, 1907 and 1919, s. 37. By reason of the limited ambit of a patent, a sale and delivery abroad of an article protected by letters patent in the United Kingdom is not an infringement : *Saccharin Corporation* v. *Reitmeyer*, [1900] 2 Ch. 659 ; *Badische Anilin und Soda Fabrik* v. *Hickson*, [1906] A. C. 419 ; and as to importation, see *Saccharin Corporation* v. *Anglo-Continental Chemical Works*, [1901] 1 Ch. 414 ; *Wilderman* v. *Berk & Co.*, [1925] 1 Ch. 116.

premises unto the said [*purchaser*], or to such persons or person [in England] as he shall direct.

3. The said [*vendor*] will from time to time during a period of —— calendar months from the date of completion when requested in writing by the said [*purchaser*] attend at such place not exceeding —— miles from —— as the said [*purchaser*] shall appoint, and there explain and demonstrate the principles and working of the said invention to the said [*purchaser*] and his managers and workmen.

4. The said [*vendor*] will, so far as he lawfully can, transfer to and procure for the said [*purchaser*] all such patronage and custom for the articles and things manufactured or produced under the said invention, patent and patent-rights as the said [*vendor*] can command or influence.

5. The said [*vendor*] shall not be required to prove the validity of the said patent or warrant such validity but if such patent shall be declared invalid by a c mpetent Court the said [*vendor*] will repay to the said [*purchaser*] the said deposit in full satisfaction of all claims of the said [*purchaser*] under this clause.

[5A. *Or*, The said [*vendor*] warrants the validity of the said patent.]

6. The said purchaser shall pay the sum of £—— being the remainder of the said purchase-money to the said [*vendor*] on the —— day of —— next.

7. If the said sum shall not be paid on the —— day of —— the said [*purchaser*] shall pay interest to the said [*vendor*] on the same, or so much thereof as shall for the time being remain unpaid after the rate of [5] per cent. per annum until payment.

8. All improvements in and additions to the said invention made or discovered by the said [*vendor*] shall be the property of the said [*purchaser*], and the said [*vendor*] shall disclose the same to the said [*purchaser*] and do all things necessary to enable the said [*purchaser*] to obtain patent-rights in respect thereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

LANDLORD AND TENANT.

124.

AGREEMENT for Letting a Cottage for a Year or Less (*g*).

MEMORANDUM OF AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord) of the one part and [*tenant*] of &c. (hereinafter called the tenant) of the other part.

(*g*) Stamp 1*d.* if the rent does not exceed £40 per annum (Finance Act, 1924 (14 & 15 Geo. 5, c. 21), s. 35). Leases of land or of any interest therein taking effect in possession for a term not exceeding three years (whether or not the lessee has power

WITNESSETH as follows :—

1. The landlord hereby lets (*h*) to the tenant ALL THAT cottage known as —— Cottage, with the outbuildings, garden and premises thereunto belonging, situate at &c. for the term of one year, [*or* from month to month *or* week to week] commencing from the date hereof at a rent of [ten] shillings a week [payable in advance, the first payment having been this day made the receipt whereof the landlord hereby acknowledges].

2. The tenant hereby agrees to pay the said rent, to keep the internal parts of the said cottage clean and in sanitary condition and tenantable repair (*i*) [and the garden in front thereof in an orderly state] during the tenancy, accidental damage excepted, to leave the same in such repair and condition at the termination of the tenancy, to allow the landlord to inspect the premises at all times, and not to underlet or part with possession any part thereof without the landlord's consent, in writing [except to weekly lodgers].

3. If the tenant shall, for the space of —— days or upwards, cease to occupy the said cottage and garden by himself or his family, or if there shall not be sufficient effects on the premises to satisfy the said rent when and as it shall become due, or if the tenant without the consent of the landlord shall underlet the said premises, or any part thereof [except as aforesaid], or shall use the said cottage as a beershop, workshop, or place of public sale or public worship, or shall commit a breach of any stipulation on his part herein contained, the tenancy shall, in any of such cases, thenceforth cease, and it shall be lawful for the landlord to re-enter and take full possession of the premises, and to remove as well the tenant and

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to extend the term) at the best rent reasonably obtainable without fine, may be created by parol or writing (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 54 (2)). All other leases are required to be in writing (*ibid.* s. 53), otherwise they create only tenancies at will (*ibid.* s. 54 (1)), and are void for the purpose of creating a legal estate unless made by deed (*ibid.* s. 52 (1)). But a lease, though void for this purpose as being under hand only, operates, nevertheless, in equity as an agreement for a lease and, as such, to create an equitable interest in the term provided the agreement is one of which specific performance would be granted (*Gray* v. *Spyer*, [1922] 2 Ch. 22, 33), and *semble* such equitable lessee is entitled to require the lessor to vest in him a corresponding legal estate where the lessor is owner of the legal estate (Law of Property Act 1925, s. 3). Where possession has been given (see *ibid.* s. 55 (c) of the hereditaments under an agreement, whether written or parol, which is capable of operating as a present demise and of which specific performance (*see ibid.* s. 55 (*d*)) would be ordered, the tenant is, as between himself and his landlord, practically in as good a position as if a lease by deed had been executed (*Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9 ; *Strong* v. *Stringer* (1889), 61 L. T. 470 ; *Cory* v. *Davies*, [1923] 2 Ch. 95, 111 ; but as regards strangers to the agreement, see *Manchester Brewery* v. *Coombs*, [1901] 2 Ch. 608, 617 ; *Purchase* v. *Lichfield Brewery*, [1915] 1 K. B. 184). As to the implied obligations of a yearly tenant, see *Marsden* v. *Heyes, Ltd.*, [1927] 2 K. B. 1.

(*h*) As to the covenant for quiet enjoyment implied by the words "demise" or "let," see *Markham* v. *Paget*, [1908] 1 Ch. 697, where all the authorities are reviewed.

(*i*) If the amount of the rent brings the cottage within the Housing Act, 1925, the implied statutory undertaking of the landlord to keep it in all respects reasonably fit for human habitation (see Housing Act, 1925 (15 Geo. 5, c. 14), s. 1) will throw upon him the repairs necessary to keep the cottage in that state of fitness and only repairs above that standard will fall upon the tenant (*Jones* v. *Geen*, [1925] 1 K. B. 669 ; *Fisher* v. *Walters*, [1926] 2 K. B. 315 ; *Morgan* v. *Liverpool Corporation* (1927), 96 L. J. K. B. 234).

his family, as also all other persons then being therein and thereon, and his and their effects therefrom.

4. The landlord will pay all rates and taxes payable in respect of the premises, and keep the external parts of the said cottages in tenantable repair.

5. Either party may determine the tenancy hereby created [at any time of the year] on giving to the other of them one [week's *or*] calendar month's notice, in writing, for that purpose (*k*). Leaving such notice at the said cottage with some adult person therein, or, if vacant, affixing it to the door thereof, or sending it by post to the last known place of abode of the tenant, shall be deemed sufficient service thereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

125.

AGREEMENT for Letting a Furnished House (*l*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 124, p. 198, *supra*].

WITNESSETH as follows :—

1. The landlord hereby lets to the tenant, who hereby takes ALL THAT dwelling-house [being No. ——], with the offices, coach-house, stable, outbuildings, yards, gardens, and a close of pasture land thereunto adjoining and belonging, situate at —— And also the use of all the household furniture, fixtures, fittings, articles and things now being in and about the said dwelling-house and buildings and upon the premises hereby demised and belonging to the landlord and specified in an inventory thereof hereunder written [*or* hereunto annexed and signed by the parties hereto (*m*)]. For the term of [three] years from the —— day of —— determinable as hereinafter mentioned [*or* from year to year until determined as hereinafter mentioned] at the yearly rent of £——, payable quarterly on the usual quarter days [*or state dates for payment*].

2. The landlord will keep all the floors, walls, roofs, and external parts of the said dwelling-house and buildings in good and substantial repair [and will also repair and replace, with articles suitable, and of good quality, when and as occasion may require, such of the furniture, fixtures, fittings, effects, articles, and things hereby demised as shall be worn out, destroyed damaged, or rendered unfit or unsuitable for the use of the tenant, by

(*k*) As to the effect of this notice, see *Mayo* v. *Joyce*, [1920] 1 K. B. 824, and as to determining a weekly tenancy, see *Queen's Club Gardens Estates, Ltd.* v. *Bignell* (1924), 93 L. J. K. B. 107 ; *Newman* v. *Slade*, [1926] 2 K. B. 328 ; and a monthly tenancy, see *Precious* v. *Reedie* (1924), 93 L. J. K. B. 800.

(*l*) Stamp. *Ad valorem* on the rent.

(*m*) This should be carefully and minutely prepared and compared and signed by both parties so as to avoid future dispute or question respecting the identity or nature of the articles and things demised.

fire, storm, tempest, tumult, damp, dry-rot, unavoidable accident (*n*), or by the reasonable use and wear thereof]. [*If the landlord is, as is usual in these cases, to pay all rates and taxes,* and also will pay all rates and taxes and assessments and outgoings whatsoever (except gas electric light and water rates) chargeable in respect of the said premises, and will indemnify the said tenant therefrom].

3. The tenant hereby agrees as follows :—

(*a*) To pay the said rent on the days hereinbefore appointed, clear of all deductions whatsoever, except land-tax and landlord's property-tax, [and will, if required by the said landlord, make such quarterly payments in advance (*o*)], the first payment whereof shall be made on the —— day of —— next. [*If the tenant is to pay the rates and taxes,* and will also pay all rates and taxes payable in respect of the premises].

(*b*) Once during the said term, properly to paper, paint and whitewash the whole of the internal parts of the said dwelling-house and buildings in a workmanlike manner, and with such materials as shall be first approved by the said landlord, or such surveyor or other person as he shall appoint to inspect the same (*p*).

(*c*) To keep all the furniture, fixtures, fittings, effects, articles and things hereby demised clean and in good order and condition, and [the internal parts of the said dwelling-house and buildings, including] the glass windows and doors, locks, bolts, fastenings, [papers, cupboards, chimney-pieces] and ornaments in good and tenantable repair during the tenancy, [the same being first put in such repair and condition,] reasonable wear and tear excepted, and all the cesspools, [privies,] closets, sinks, and drains emptied and properly cleansed and scoured, and all the chimneys and flues properly swept and cleansed, and leave the same respectively in such repair and condition at the termination of the said tenancy.

(*d*) To permit the landlord at all reasonable times, [on [one] day's previous written notice] to enter upon and inspect the interior of the said premises, and the said furniture, fixtures, fillings, effects, articles and things, and, in case any of them, or any part thereof, shall be found in want of reparation or cleansing, according to this agreement, within —— days next after notice, in writing, specifying such defects, with all practicable despatch, to repair and cleanse the same accordingly, and in default thereof the landlord shall be at full liberty to repair and cleanse, and in such case the money which shall be necessarily expended in

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(*n*) A clause is often inserted requiring the tenant to replace articles wilfully or carelessly destroyed or damaged by him or his servants. See such a clause at p. 212, *post.*

(*o*) As the landlord has no remedy by distress, the furniture being his own, it is prudent to make the rent payable in advance.

(*p*) This is not usual, except under leases for long terms, as the landlord is the proper party to do it, unless let at a reduced rent.

and about such repairs and cleansing [not exceeding at any one time £——,] shall be paid to the landlord by the tenant.

[(*e*) If any person residing in or visiting the said premises shall suffer from any infectious or contagious disease during the tenancy hereby created, to give notice thereof in writing to the landlord specifying the nature and date of the illness and thoroughly to disinfect and purify [and redecorate] such part of the premises and effects as such person shall have occupied or have come into contact with, to the satisfaction of the [landlord and the] medical officer of health for the district, and to keep the landlord fully indemnified against all actions, claims and expenses incurred by him by reason of the said premises or effects or any part thereof becoming infected or unwholesome as aforesaid (*q*).]

(*f*) Not without the consent, in writing, of the landlord to alter the said dwelling-house or buildings, or the front or elevation thereof, or carry, or permit to be carried on, any noisome or offensive trade or business therein or thereon, or permit any sale by auction to take place on the said premises, or exhibit any goods or articles for sale in the windows of the said dwelling-house, or permit any such to be exhibited therein, but in all respects to use the said dwelling-house as a private residence [or boarding-house] only.

(*g*) Not without such consent as aforesaid, to assign, underlet or part with the possession of the said premises, or any part thereof, during the said tenancy [except to weekly or other lodgers,] or remove or attempt to remove the effects and things hereby demised, or any of them, to any other places whatsoever.

4. In case the dwelling-house and buildings hereby demised shall be destroyed or rendered uninhabitable by fire, storm, tempest, tumult or enemy action [or if there shall not be a sufficient supply of pure and wholesome water to the said dwelling-house, [or if the drains or sewers on the said premises shall not be sufficiently cleansed to prevent noxious, impure or offensive effluvia,] or if the said premises should be, or become, by those, or any other means, or from any other cause, unwholesome or unfit for the habitation of the said tenant, or objectionable under the sanitary laws (*r*), and the landlord shall not within —— weeks [or with all practicable despatch] next after notice thereof, in writing, effectually remove or obviate the respective causes thereof (*s*),] then, and in any of

(*q*) There is no implied warranty that the intending tenant is free from infectious disease: *Humphreys* v. *Miller*, [1917] 2 K. B. 122; but see *Collins* v. *Hopkins*, [1923] 2 K. B. 617, 620, *per* M'Cardie, J.

(*r*) It is an implied term in an agreement for letting a *furnished* house for a short period that it is fit for immediate occupation, so that if, *e.g.* the drainage is defective, the tenant may rescind the contract (*Wilson* v. *Finch Hatton* (1877, 2 Ex. D. 336; *Smith* v. *Marrable* (1843), 11 M. & W. 5); *Collins* v. *Hopkins*, [1923] 2 K. B. 617; but see *Chester* v. *Powell* (1885), 52 L. T. 72, where the rule was not applied to a partly furnished house let for five years. See also *Silverman* v. *Imperial London Hotels, Ltd.* (1927), 137 L. T. Rep. 57.

(*s*) See *Foulger* v. *Arding*, [1902] 1 K. B. 700; *Stockdale* v. *Ascherberg*, [1904] 1 K. B. 447; *Howe* v. *Botwood*, [1913] 2 K. B. 387.

such events all liability of the tenant under this agreement, or otherwise to pay rent shall be suspended until the said dwelling-house and buildings shall have been restored or rendered habitable [or such defect or nuisance shall be made good or remedied] (*t*).

5. In case the said rent or any part thereof shall be in arrear for the space of —— days next after it shall become due as aforesaid, or if the tenant shall become bankrupt, or compromise with his creditors, or shall not perform the agreements on his part hereinbefore contained, or if any execution shall be levied or attempted to be levied on the said furniture and effects or any part thereof, then, and in any such case the tenancy hereby created shall cease, and the landlord shall be at liberty to re-enter and take possession of the said premises, furniture and effects.

6. Either party may determine the tenancy hereby created by giving to the other of them six calendar months' previous notice in writing expiring on any quarter day.

IN WITNESS, &c.

[*Signatures of both parties.*]

126.

AGREEMENT for Letting an Unfurnished House (*a*).

THIS AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord) of the one part and [*tenant*] of &c. (hereinafter called the tenant) of the other part.

WITNESSETH as follows :—

1. The landlord agrees to let to the tenant, and the tenant hereby agrees to take at the yearly rent of £—— subject to the stipulations and agreements hereinafter stated ALL THAT dwelling-house, known as No. —— in —— street in the county of —— from the day of the date hereof for the term of [three] years, determinable as hereinafter mentioned.

2. The tenant agrees with the landlord as follows :—

(1) To pay the said rent by equal quarterly payments on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— in every year, during the said term, clear of all deductions, except land-tax and landlord's property-tax.

(2) To pay the further sum of £—— in the nature of rent, and to be recoverable by distress, as in cases of rent in arrear, daily and every day, so long as he shall retain possession of the said premises after the termination of the tenancy [the further rent of £—— so long beyond —— days as he shall keep the said dwelling-house unoccupied by himself or his family, and the further sum of £—— if and so long as he shall keep the said

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(*t*) As to the tenant's liability for loss by burglary see *Phillimore* v. *Lane* (1925), 133 L. T. 268.

(*a*) Stamp. *Ad valorem* on the rent.

premises in an unwholesome or disorderly state contrary to the sanitary laws].

(3) To pay all rates, taxes, assessments and outgoings (*b*) whatsoever to become henceforth payable for or in respect of the said premises [except such of the same as are in the absence of contract payable by a landlord].

(4) At his own expense to keep [all the internal parts of] the said dwelling-house and domestic offices in tenantable repair and sanitary condition during the said term (*c*).

(5) To empty, cleanse, and scour and during the said term, keep properly emptied, cleansed, and scoured, all the cesspools, closets, drains, pipes, sinks, gutters and water-shoots on and belonging to the said dwelling-house, buildings, and premises, when and as often as occasion may require.

(6) At the termination of the tenancy to peaceably quit and deliver up possession of the said premises to the landlord, or to such person as he shall, in writing, appoint to receive the same, in such repair, order, and condition as aforesaid.

(7) Not, at any time during the said term, to assign, underlet or otherwise part with possession of the said premises, or any part thereof, to any person [except to weekly or monthly lodgers] without the consent, in writing, of the landlord.

(8) To use the said dwelling-house as a private residence [or boarding-house] only (*d*).

(9) Not, at any time during the said term, to create or permit any nuisance on, or other injury to the said premises, or any annoyance to the owners or occupiers of the adjoining properties.

(10) Not to make any alterations in or on the said premises, without obtaining the assent of the landlord thereto.

3. The landlord agrees with the tenant as follows :—

(1) To [pay all rent payable to the superior landlord at the appointed times and to pay and] keep the tenant indemnified against all outgoings in respect of the premises which the tenant is not hereby made liable to pay.

(2) To allow the tenant to deduct from the next ensuing instalment or instalments of rent all payments which the tenant shall be obliged to make [to the superior landlord and] which the landlord ought to have paid under these presents (*e*).

(*b*) As to these words see cases cited in the English and Empire Digest, vol. 31, pp. 290–310, and as to liability to pay private street expenses see *Lowther* v. *Clifford* (1926), 95 L. J. K. B. 576, C.A.

(*c*) If premises, through their own inherent defects, fall in the course of the tenancy into a particular condition, the results of their being in that condition are not within the tenant's covenant to repair (*Wright* v. *Lawson* (1903), 19 T. L. R. 510); but see *Lurcott* v. *Wakely and Wheeler*, [1911] 1 K. B. 905, and *Anstruther-Gough-Calthorpe* v. *McOscar*, [1924] 1 K. B. 716). As to repairs generally see cases cited in the English and Empire Digest, vol. 31, pp. 310–350.

(*d*) See *Thorn* v. *Madden*, [1925] Ch. 847; 95 L. J. Ch. 52 (paying guests).

(*e*) As to deductions from rent see cases cited in the English and Empire Digest, vol. 31, pp. 244–249.

(3) [To keep the external parts and external drains of the said premises in good and substantial repair and condition.]

(4) [To insure the premises against loss or damage by fire and in case of damage or destruction by fire to rebuild and reinstate the premises with all reasonable despatch.]

(5) That if the tenant shall duly pay the rent hereby reserved and perform and observe his obligations hereunder he shall during the tenancy quietly enjoy the said premises without interruption by the landlord or any person lawfully claiming under or in trust for him.

4. The landlord shall, at all reasonable times during the said term, be at full liberty to enter the said dwelling-house and buildings, and upon the said premises, with his agent, surveyor, workmen and others to inspect the repair and condition thereof, and for other reasonable purposes, and to do all the repairs and works on his part to be performed, on giving the tenant —— hours' previous notice of his intention so to do. If upon any such occasion, any [of the internal] parts of the said dwelling-house shall be found to be in want of reparation, or any part of the said premises shall require cleansing or scouring as aforesaid, the tenant shall on receiving notice, in writing, from the landlord, or his agent, of the part or parts requiring such repair, cleansing or scouring, with all practicable despatch carry out and complete the work specified in such notice.

5. If so long as the said premises shall be uninhabitable by reason of destruction or damage by fire, tempest, or enemy action the rent hereby reserved shall cease to be payable until the said premises have been rendered habitable.

6. If the rent hereby reserved shall be in arrear for twenty-one days whether legally demanded or not or if the tenant shall commit any breach of any agreement on his part herein contained or if the tenant shall be adjudicated bankrupt [*or* shall have a receiving order made against him] or shall enter into any composition with his creditors then and in any of such cases, the tenancy hereby created shall cease as if it had expired by effluxion of time (*f*) and it shall be lawful for the landlord after the expiration of —— hours' notice to be given to, or left with some adult person, on the said premises, requiring immediate possession thereof, to re-enter and take full possession thereof, and to remove (*g*) the tenant, his family, and all or any other persons then being thereon, and his and their effects, from and off the said premises.

7. If the tenant shall remove or attempt to remove any of his effects from the demised premises before all the rent then due, and accruing

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(*f*) As to landlord's power to distrain after the expiration of the term see Halsbury's Laws of England, title "Distress," vol. 2, p. 149.

(*g*) This does not justify the use of force for which the landlord may be criminally liable under 5 Ric. 2, stat. 1, c. 7; but if no more force is used than is necessary to remove the tenant an action for damages will not lie against the landlord either for the forcible entry and eviction or for independent wrongs, such as assault or injury to the tenant's goods, done in the course of the eviction (*Hemmings* v. *Stoke Poges Golf Club*, [1920] 1 K. B. 720; and see *Lows* v. *Telford* (1876), 1 App. Cas. 414).

due up to the end of the tenancy shall have been paid, it shall be lawful for the landlord to distrain the same, wheresoever they may then be, for such rent, as for rent in arrear, notwithstanding the said rent or any part thereof, shall not have then become actually due.

[8. It shall be lawful for either of the said parties to determine the tenancy hereby created at the end of any [half] year of the tenancy on giving unto the other of them [six] calendar months' previous notice, in writing, for that purpose.]

IN WITNESS, &c.

[*Signatures of both parties.*]

127.

AGREEMENT for Sub-letting a House and Grounds (*h*).

THIS AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord) of the one part and [*tenant*] of &c. (hereinafter called the tenant) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The landlord will grant and the tenant will accept an underlease of ALL THAT house and premises known as —— at —— in the county of —— containing —— acres or thereabouts [and now in the occupation of the landlord] for the term of [7] years from the —— day of —— at the yearly rent of £—— payable free of deduction except for landlord's property tax by equal half-yearly payments on the —— day of —— and the —— day of —— in every year the first such payment to be made on the —— day of —— next.

2. The property is [part of certain hereditaments] held by the landlord under a lease for —— years made by a deed dated the —— day of —— and made between [*parties*] and the demise hereby agreed to be made shall be subject to all exceptions and reservations in the said lease contained.

3. The said underlease shall contain covenants conditions and stipulations on the part of the tenant [as regards the property hereby agreed to be demised] identical with those by the said lease made binding on the landlord [except the covenant to pay rent thereunder] but so that the name of the landlord shall be substituted in the said underlease for the name of the lessor in the said lease (*i*). The said underlease shall also contain covenants by the tenant to pay the rent to be reserved by the said underlease and to indemnify the landlord against all breaches of the covenants (except the said covenant to pay rent) and conditions in the said lease contained and on his part to be performed or observed.

4. The said underlease shall contain the usual qualified covenant on the part of the landlord for quiet enjoyment by the tenant of the property hereby agreed to be demised and a covenant by the landlord

(*h*) Stamp. *Ad valorem* on the rent.
(*i*) See *Haywood* v. *Silber* (1885), 30 Ch. D. 404.

to pay the rent reserved by the said lease [and as regards the part of the property not hereby agreed to be demised to perform and observe the covenants and conditions therein contained] and indemnify the tenant from all actions claims and demands by reason of non-payment of the same.

5. The said underlease shall also contain a power for the landlord if the rent to be reserved thereunder shall be in arrear for 21 days whether formally demanded or not to re-enter on the premises or any part thereof in the name of the whole and thereupon to determine the term thereby granted.

6. The said underlease shall empower the tenant by six months' previous notice in writing addressed and sent to the landlord to determine the said underlease at the expiration of the [fourth seventh or fourteenth] year of the said term.

6A. [The landlord shall not be required to furnish any evidence of title except the said lease and the receipt for the last payment of rent due thereunder preceding the date of this agreement (*k*).]

7. The tenant shall pay the landlord's costs and expenses of and incidental to the preparation, stamping and execution of the said underlease and a counterpart thereof, both of which shall be prepared by the landlord's solicitor [and of obtaining the consent hereinafter mentioned (*l*)].

8. [The landlord will endeavour to procure the consent of his lessor to the grant of the said underlease but if he shall be unable to obtain such consent within —— weeks hereof this agreement shall become void. The said underlease and counterpart shall be executed within —— weeks of the obtaining of such consent as aforesaid.]

IN WITNESS, &c.

[*Signatures of both parties.*]

128.

AGREEMENT for Letting an Unfurnished House in the Country where Tenant is to have Option of a Lease (*m*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 127, p. 206, *supra*].

(*k*) The sub-lessee should take care and see what are the conditions under which the lessee holds, so as to avoid a forfeiture by the violation of covenants in the original lease; and he has a right (in the absence of agreement), to see the title as s. 44 (2), (3), (4) of the Law of Property Act, 1925 (15 Geo. 5. c. 20) does not apply (*Gosling* v. *Woolf*, [1893] 1 Q. B. 39; and see *Melzak* v. *Lilienfeld* (1926), 95 L. J. Ch. 305). The underlease should contain an acknowledgment by the landlord of the right of the tenant to the production of the original lease and to delivery of copies, and an undertaking for safe custody.

(*l*) As to this, see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 48 (3).

(*m*) Stamp. *Ad valorem* on the rent.

WITNESSETH as follows :—

1. The landlord agrees to let unto the tenant ALL THAT dwelling-house [called or] known as ——, with the coach-house, stable, outbuildings, garden, and plot or piece of pasture land thereto belonging situate at —— for one year from the date hereof, at the yearly rent of £—— payable quarterly on the usual quarter days.

2. The landlord hereby agrees that the tenant duly performing this agreement on his part, shall peaceably hold, occupy, and enjoy the said premises during the said term, and that the landlord will keep the [floors, ceilings] main walls, roofs, and external parts of the said buildings in good and substantial repair

3. The tenant hereby agrees as follows :—

(*a*) To take the said premises during the said term, and to pay the said rent in manner aforesaid, and all rates and taxes to become payable for or in respect thereof [from the commencement of the said tenancy].

(*b*) To keep all the internal parts of the said premises [except as aforesaid] but including the glass of the windows (*n*) in good and substantial repair, order and condition in all respects during the said term, damage by fire, tempest, tumult, damp, dry-rot, and reasonable wear and tear thereof excepted and to peacefully quit and yield up the same to the landlord in such repair and condition at the termination of the said term.

(*c*) To keep the said gardens in good condition and prune at the proper seasons all fruit trees and bushes and hedges which require pruning and replace any trees or bushes which shall die with others of a suitable kind, and to keep all lawns properly mowed rolled and trimmed and all gravel and other paths in a neat condition.

(*d*) To permit the landlord and his surveyor and workmen at all times, after receiving reasonable notice, not only to enter upon the said dwelling-house and premises to inspect the state and condition thereof, but also to do all such repairs as may be necessary and incumbent upon the landlord to do according to this agreement.

(*e*) Not without the consent of the landlord to assign underlet or part with possession of the said premises or any part thereof to any person or persons whomsoever,—or use the said dwelling-house otherwise than as a private residence, or alter the same or any part of the said premises, or permit any sale by auction to take place thereon.

4. It is hereby mutually agreed between the parties that on the expiration of the said term the tenant having duly observed the stipulations on his part herein contained and this agreement not having been previously determined shall have the option of continuing the tenancy

(*n*) Windows form part of the structure of a house (*Boswell* v. *Crucible Steel Co.*, [1925] 1 K. B. 119).

of the said dwelling-house and premises for a further term of —— years at the said rent [*or* at the yearly rent of £——] payable as aforesaid: such option to be exercised by notice in writing sent to the landlord at his last known place of address at least [two] calendar months before the determination of the said term and the landlord shall grant him a lease of the said premises embodying not only the terms of this agreement so far as they may be then applicable, but also containing all other proper covenants, conditions, and agreements usually (*o*) inserted in leases of a like or similar nature; which said lease shall be prepared by the solicitor for the landlord at the cost of the tenant (*p*).

5. [*Power of re-entry as in Form* 126, *clause* 6, p. 205, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

129.

AGREEMENT for Letting Unfurnished Apartments (*q*).

MEMORANDUM OF AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. of the one part and [*tenant*] of &c. of the other part.

1. The said [*landlord*] hereby agrees to let to the said [*tenant*] all that suite of apartments consisting of a [front] dining-room, [back] drawing-room, two [front *or* back] bedrooms, dressing-room, with linen and water-closet behind the same, all on the ground [*or*, first—*or as the case may be*] floor of the dwelling-house [belonging to or] in the occupation of the said [*landlord*] being No. ——, situate at —— Together with the use of the entrance-hall, staircase, and passages leading thereto. [*Or* All those the two [*or more*] [front] rooms, on the ground [*or as the case may be*] floor of the dwelling-house situate at &c. Together with two [back] bedrooms, dressing-rooms, [and the use of the] linen and water-closet on the first [*or as the case may be*] floor of the said dwelling-house and the use of the entrance-hall, staircase, landings and passages leading to the said apartments respectively, jointly with the said [*landlord*] and his family, friends, servants and others entitled to use the same.] [*Or*, All those chambers, comprising three [*or more*] rooms &c. situate at ——(*r*)] for [one] year from the date hereof, determinable neverthe-

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(*o*) See note (*s*) p. 81, *supra.*

(*p*) This option should be registered under the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (1), class C. (iv).

(*q*) Stamp. *Ad valorem* on the rent unless the term is less than one year and the rent exceeds £25, in which case there is a fixed duty of 5*s*. It seems that it is not an implied term of the letting of unfurnished apartments that the same are fit for habitation (see *Hart* v. *Windsor* (1843), 12 M. & W. 68), except perhaps when taken for immediate occupation (*Bunn* v. *Harrison* (1886), 3 T. L. R. 146).

(*r*) Sometimes it is not easy to describe the exact situation of the different rooms to be demised. In such cases, it is better to have a plan of the floor or floors containing them; or, where this is impracticable, the name, or numeral, or initial letters painted on the doors of each room and to state them here as numbered, 1, 2, 3, or lettered A, B, &c., but with respect to chambers, counting-houses, and the like let on

less, as hereinafter mentioned, at the yearly rent of £—— payable by equal quarterly payments on the usual quarter days clear of all deductions.

2. The said [*landlord*] agrees—

(*a*) To pay all rates, taxes, and outgoings whatsoever [including the water rate but excluding gas and electric light (*s*)] payable and to become payable in respect of the said apartments and to indemnify the said [*tenant*] against all liability in respect thereof [and also against all claims and demands for rent and otherwise by any superior landlord].

(*b*) To keep the outside of the said house in good repair and to keep also the stairs and passages and all parts thereof which are to be used by the said [*tenant*] in common with other occupants of the premises in good repair and sufficiently lighted, and to paint, paper, and whitewash the said apartments whenever the same, by reasonable use, shall become necessary (*t*).

3. The said [*tenant*] agrees :—

(*a*) To pay the said rent in manner aforesaid.

(*b*) To preserve the apartments from wilful damage.

(*c*) To keep the same in tenantable repair, including the glass of the windows, and doors, locks, fastenings and fittings thereto belonging.

(*d*) To leave the same peacefully in such repair and properly scoured and cleansed at the termination of the tenancy, reasonable wear and tear thereof excepted.

(*e*) To permit the said [*landlord*] and his workmen at all proper times, on reasonable request to enter therein to inspect the same, and to do the necessary repairs therein or thereto according to the stipulation hereinbefore contained.

(*f*) Not to assign, underlet or otherwise part with the possession of the said apartments, or any part thereof, during the tenancy without the consent in writing of the said [*landlord*].

(*g*) Not to make any alteration therein or thereto, without such consent nor convert the said apartments or any part thereof into a store-room, workroom, or place of business or of public worship or amusement, but to use the same only as private rooms.

(*h*) Not to create or permit any wilful noise or disturbance therein, or do any other act or thing to the wilful annoyance of the said [*landlord*] or his tenants.

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separate floors, the names of the tenants are generally placed on the doors as well as indicators in the passages pointing to the floors or portion of the buildings where the rooms are to be found.

(*s*) If the gas and electric light charges are not imposed separately on the apartments, see Form 131, clause 2 (2) p. 214, *infra*, which can be adapted to meet the case.

(*t*) If the stairs and passages communicating with the apartments occupied by the tenant are separate from the rest of the house, the duty of keeping them clean should be thrown upon the tenant by an express clause, and any arrangement as to the lighting of the stairs and passages by the landlord or tenant should be included in the agreement. So as to the use of any bell from outside.

4. At the expiration of the said tenancy, the said [*tenant*] shall have the option of continuing it upon the terms and stipulations herein expressed until either of the parties shall determine the same, by giving to the other of them —— calendar months' previous notice in writing, expiring on any quarter day for that purpose (*a*).

5. If the said rent, or any part thereof, shall be in arrear for the space of —— days next after the same shall become payable as aforesaid, or, if the said [*tenant*] shall become bankrupt or make any composition with, or assignment of his effects for the benefit of his creditors, or shall suffer his effects to be taken in execution; or shall commit any breach of any stipulation herein contained, and on his part to be observed and performed then it shall be lawful for the said [*landlord*] without any notice or legal process whatever, to resume, and take possession of the said apartments and to remove the said [*tenant*] his family and friends therefrom.

6. If the said apartments shall be destroyed or damaged by fire, or shall otherwise become unfit for use and occupation, the rent hereby reserved, or a due proportion thereof, shall cease until the complete restoration thereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

130.

AGREEMENT for Letting Furnished Apartments (*b*).

MEMORANDUM OF AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 129, p. 209, *supra*].

1. The said [*landlord*] agrees to let unto the said [*tenant*] ALL THOSE furnished rooms and apartments consisting of the —— front rooms on the —— floor in the dwelling-house belonging to and now occupied by the said [*landlord*] in —— Street at —— and now furnished by the said [*landlord*], an inventory of which furniture is hereunder written, with the furniture fixtures and fittings thereto belonging, and the free use of the [kitchen and scullery therein, and the cellar, fuel-house and water-closet, yard and garden adjoining, and the use of the] front entrance, front doorbell, hall, staircase and passages leading thereto, [and the side entrance or passage leading to the yard] for the term of one year from the —— day of —— next, determinable, nevertheless, as hereinafter mentioned at the annual rent of £—— which is to include all [gas, electric light, water and other] rates, taxes and outgoings whatsoever (*c*), and to be payable quarterly, [*state days of payment*].

(*a*) An option to renew a lease should be registered as an "estate contract" under the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (1), Class C. (iv).

(*b*) Stamp, see p. 209, note (*q*), *supra*. The implied undertaking as to the fitness of the premises (as to which see note (*r*), p. 202, *supra*) applies only to their condition at the commencement of the tenancy (*Sarson* v. *Roberts*, [1895] 2 Q. B. 395).

(*c*) Unless specially mentioned, these words would not include gas, electric light, and water, which, though charged by rates, are really commodities to be bought by

2. The said [*landlord*]—

(*a*) Will find and provide the said [*tenant*] with suitable and sufficient plate or plated articles and clean and good table linen for the use of himself, his family, friends and visitors, and such as are suitable for his servants, if any, [and also a clean, civil, and honest servant to attend to, wait upon, and obey the orders of the said [*tenant*], his family, friends and visitors upon all occasions when reasonably required].

(*b*) Will properly clean, or have properly cleaned, all the boots and shoes, knives and forks, and all the culinary [and other] articles used by the said [*tenant*], his family, friends, and visitors, or any or either of them (*d*).

(*c*) Will provide the said [*tenant*] his family, friends, and visitors to the said apartments, with as much pure and clean water, both hot and cold, as and when he, she or they shall reasonably require it (unless prevented by frost or accident).

(*d*) Will, if and when required, properly cook the food of the said [*tenant*], his family, friends and visitors, in such manner and at such times as he or they shall reasonably appoint [but not after —— p.m.] finding the necessary utensils and fuel for that purpose and will properly serve up the same daily at such times as the said [*tenant*], his wife or any of his family shall reasonably require except after the hour aforesaid.

(*e*) Will, at all times, keep the said apartments, entrance-hall, staircase, passage, [yard and closets] clean, dry and free from interruption, noise and annoyance, and will keep all the bed and table-linen, articles of furniture and food belonging to, and to be provided for and by the said [*tenant*], clean, and in a proper condition, and will forthwith replace with others of equal value and of proper dimensions and modern pattern and fashion, as well all such articles whether belonging to the said [*tenant*] or the said [*landlord*] as shall be broken, damaged, or destroyed by his servant as also all such furniture and articles belonging to the said [*landlord*] as shall be worn out or become unfit for the use of the said [*tenant*].

3. The said [*tenant*]—

(*a*) Will pay the said rent quarterly, clear of all deductions, in manner aforesaid.

(*b*) Will replace or repair forthwith all such articles belonging to the said [*landlord*], and used by the said [*tenant*], his family, friends or visitors as shall be wilfully or negligently destroyed, damaged, or rendered useless by them, or any of them, or his

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the consumer. When, however, the yearly value of the house or tenement is less than £10, the water rates will be payable by the owner and not the occupier (10 & 11 Vict. c. 17, s. 72).

(*d*) An agreement to provide service is not enforceable by specific performance (*Ryan* v. *Mutual Tontine Westminster Chambers Assocn.*, [1893] 1 Ch. 116; *Barnes* v. *City of London Real Property Co.*, [1918] 2 Ch. 18).

or their servants with others of equal value, of similar dimensions, and of similar or modern pattern and fashion and will keep the same in good order and condition, and so leave the same at the end of the tenancy, ordinary wear and tear excepted.

(*c*) Will not carry on or exercise any trade or business or any school or private teaching in the said rooms and apartments or any of them, or use any of them for public worship or amusement whatsoever, or create or permit any nuisance or wilful annoyance to the said [*landlord*], his family, friends, or visitors by means of animals, noise or otherwise, but will, at all times and in all respects, occupy the same as private rooms and in a reasonable quiet and respectable manner.

4. The said [*tenant*] may quit the said apartments at any time on giving to the said [*landlord*] [one] calendar month's notice of his intention so to do, and on paying a proportionate part of the said rent up to the time of quitting the same.

5. The said [*tenant*] shall be at liberty (but not obliged) to determine the tenancy and to quit the said apartments on the said [*landlord*] being adjudged bankrupt, or filing any petition under the bankruptcy laws, or making any assignment of his effects for the benefit of, or compounding with, his creditors, [or allowing his rent to be in arrear], or having any execution or distress levied on his effects, or on breach of any agreement on his part hereinbefore contained.

6. If the said [*tenant*] or any person by his authority or with his consent shall at any time during the tenancy attempt to remove all or any of his effects from the said rooms and apartments before the current rent shall have become due, the said [*landlord*] shall have full power to distrain for the same, and to dispose of such distress in all respects as if the same had been actually in arrear.

7. [*Proviso for re-entry as in Form* 129, *clause* 5, p. 211, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

131.

AGREEMENT for Letting Offices in a Town (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord) of the one part and [*tenants*] of &c. (hereinafter called the tenants) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The landlord will let and the tenants will take ALL THOSE four single rooms or offices, lavatory and water-closet situate at the [front] of the [third] floor and forming part of the messuage known as No. ——, ——

(*e*) Stamp. *Ad valorem* on the rent.

Street in the City of [London], which premises are shown on the plan attached to this agreement and are thereon coloured [red], together with the landlord's fixtures and fittings in or upon the same premises and together with the use in common with the other occupiers of the said messuage of the lift from the ground to the [third] floor of the said premises and of the main staircase (*f*) of the said messuage from the —— day of —— for the term of [three] years at the yearly rent of £—— payable quarterly without deduction (except landlord's property tax) on the usual quarter days, such rent to include all rates, taxes and outgoings, except charges for electric light and housekeeper's attendance as hereinafter mentioned.

2. The tenants hereby jointly and severally agree with the landlord in manner following (that is to say) :—

(1) To pay the rent hereby reserved in the manner and on the respective days aforesaid without any deduction whatsoever (save as aforesaid).

(2) To pay and discharge the charges for electric light in respect of the premises hereby demised, and in case the rates and charges for the electric light consumed or used by the tenants should not be levied or imposed separately upon the premises hereby demised to pay to the landlord a fair and just proportion of the amount of the said electric light charges for the time being levied upon the whole of the messuage and premises No. ——, —— Street aforesaid, such apportionment to be made by the landlord on the —— day of —— in each year of the said term.

(3) To pay to the landlord the sum of £[2] per annum in respect of the lighting of the stairs and passages of the said messuage and buildings up to and including the third floor thereof.

(4) To pay to the landlord the further sum of [7*s.* 6*d.*] per week for cleaning the said rooms the said sum of £[2] and the said sum of [7*s.* 6*d.*] per week to be treated as rent and to be recoverable as rent in arrear.

(5) To keep the said rooms and offices and the landlord's fittings in and upon the same in a good and proper state of tenantable repair damage by fire only excepted.

(6) At the expiration or other determination of the tenancy hereby created to deliver up possession of the said premises fixtures and fittings in a good and proper state of tenantable repair, damage by fire alone excepted.

(7) Not to assign underlet or part with the possession of the said premises or any part thereof to any person or persons whomsoever without the consent in writing of the landlord first had and obtained such consent not to be unreasonably withheld

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(*f*) As to the extent of tenant's right of user see *Strick & Co., Ltd.* v. *City Offices Co., Ltd.* (1906) 22 T. L. R. 667.

in the case of a respectable and responsible tenant including a corporation (*g*).

(8) Not to carry on or allow to be carried on any noisy, noisome, hazardous or offensive trade or business nor do or permit anything to be done on the premises or keep on the premises any articles or things which would invalidate the policy of insurance of the said premises against fire or increase the premium for such insurance beyond the existing risk or which might be or become a nuisance or annoyance to the landlord or any of his tenants.

(9) Not to pull down or alter the construction and arrangement of the said rooms and offices without such written consent as aforesaid nor cut or injure any of the timbers or floors nor deface or disfigure the walls or ceilings nor close nor obstruct any of the existing windows nor open other windows nor use nor occupy the said premises or any part thereof except as offices and in the day time only.

(10) Not to permit any sale by auction upon the premises nor affix any placard or notice upon the external walls other than name-plates at the entrance to the said building and door of the said offices nor place upon the said premises any writing or announcement except in such manner or in such place or places as the landlord shall determine.

(11) To permit the landlord his agents and workmen to enter the said premises at all reasonable times to view and examine the state and condition thereof.

(12) To permit the landlord his agents and workmen and the tenants and occupiers of other parts of the messuage No. ——, —— Street, and of any adjoining messuage at any time during the said term at reasonable hours in the day-time to enter upon the premises hereby demised or any part thereof for the purpose of executing repairs to the drains or to any part of the said premises aforesaid or to any adjoining messuage or premises making good to the tenant all damage thereby occasioned.

3. If any rent shall be in arrear for [21] days after the due date of payment whether formally demanded or not or in the event of any breach or non-observance by the tenants of any agreement on their part herein contained, or if the tenants or either of them shall become bankrupt then, and in any such case, the landlord may re-enter at any time thereafter upon the premises or any part thereof in the name of the whole and repossess the same.

4. The landlord hereby agrees with the tenants that the tenants duly paying the said rent and observing and performing the several stipulations on their part herein contained shall peaceably hold the said premises

(*g*) But without express stipulation a corporation can be a "respectable and responsible person" within this covenant (*Willmott* v. *London Road Car Co.*, [1910] 2 Ch. 525).

during the said period of years without any interruption by the landlord or any person rightfully claiming under or in trust for him.

AS WITNESS, &c.

[*Signatures of all parties.*]

132.

AGREEMENT for Tenancy of a Residential Flat (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord) of the one part and [*tenant*] of &c. (hereinafter called the tenant) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The landlord will let and the tenant will take the flat [consisting of —— rooms and a bathroom and offices] situate on the [second] floor of —— mansions —— numbered [10] and the coal cellar correspondingly numbered in the basement, together with the use in common with the other tenants of the mansions of the passenger and service lists and staircases, hall, and passages of the mansions for the term of [seven] years determinable as hereinafter mentioned from the —— day of —— at the rent of £—— per annum free of deductions except for landlord's property tax and payable by equal quarterly payments on the usual quarter days, the first payment to be made on the —— day of —— next [and to be a sum calculated at the rate aforesaid in respect of the period between such day and the said —— day of ——].

2. The tenant hereby agrees with the landlord as follows:—

(*a*) To pay the said rent whether formally demanded or not on the appointed days.

(*b*) To pay on each quarter day the sum of £[1] towards the cost of lighting and cleaning the hall staircases and passages used by all the tenants of the mansions [and the sum of £—— towards the cost of heating the said flat hall staircases and passages].

(*c*) To pay for all gas electric light and other illuminant consumed by himself or his undertenants in the said flat.

(*d*) To keep and leave the said flat and all landlord's fixtures and fittings therein in good and substantial repair, and to keep all baths, sinks, cisterns and interior pipes therein properly cleansed and in good working order and to replace the same if damaged, and to replace all broken glass forthwith and at the determination of the tenancy to leave all locks, shutters, bolts, windows, and sashlines in good working condition and keep all windows properly cleaned and all chimneys properly swept.

(*e*) Not to alter or remove the existing electric light or gas installation or other appliances in the said flat without the landlord's consent, and to obtain the landlord's approval of the person or firm employed by the tenant to effect any such alteration or removal.

(*h*) Stamp. *Ad valorem* on the rent. See the cases as to flats cited in the English and Empire Digest, vol. 31, pp. 97–102.

(*f*) To pay to the landlord at least [one] month before the end of the tenancy a sum equal to one quarter's rent which sum shall be accepted by the landlord in satisfaction of all liability on the part of the tenant to leave the interior of the said flat painted, papered and decorated.

[(*g*) To give the landlord possession of the said flat at least [14] days before the end of the tenancy to enable him to redecorate the same.]

(*h*) Not to assign or sublet or part with possession of the flat or any part thereof without the landlord's previous consent in writing.

(*i*) Not to take in lodgers or boarders or carry on any trade, profession or business in the said flat or use the same as an address for any trade profession or business, or the issue of circulars, pamphlets, [or advertisements] but to use the said flat as a private residence only.

(*j*) Not to bring or allow to remain upon any part of the said flat or the passages or staircases leading thereto any disorderly immoral or disreputable person.

(*k*) Not to keep any inflammable or dangerous materials or substances nor do anything which might increase the rate of the premium for the insurance of the mansions beyond private house risk or invalidate the insurance (*i*).

(*l*) Not to make any addition or alteration to the exterior of the said flat or display or permit to be displayed any placard, advertisement, sign, letters or design in or upon the exterior of the said flat or any window thereof.

(*m*) Not to do or permit anything to be done in the said flat or any part thereof which may cause danger, nuisance, scandal or annoyance to the landlord or the tenants of the other flats in the mansions.

(*n*) To allow the landlord or his agents, surveyors and workmen [and the servants of the electric lighting and gas companies supplying the mansions] to have access at all reasonable times to the said flat and to inspect the same and every part thereof.

(*o*) During the last month of the tenancy to permit any intending tenant if accompanied by the hall porter to inspect the said flat at reasonable hours between the hours of [11] A.M. and [6] P.M.

(*p*) To pay to the solicitor of the landlord [two] guineas in addition to the stamp duties as his costs and expenses of and incidental to this agreement and also to pay such solicitor [two] guineas for his charges for approving any instrument of assignment or underlease of the said flat.

(*q*) At the expiration or earlier determination of the tenancy to give peaceable possession thereof to the landlord.

(*r*) To observe and cause his family servants guests and visitors (so far as possible) to observe the regulations specified in the

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(*i*) See *Chapman* v. *Mason and Liniline Co.* (1910), 103 L. T. 390.

Schedule hereto [and such other regulations as the landlord may from time to time make for the general comfort and reasonable convenience of the tenants of the mansions and may publish in the hall of the mansions].

3. The landlord hereby agrees with the tenant as follows :—

(*a*) To keep the exterior walls roof pipes and drains of the said flat in good and substantial repair, and in every [3rd] year of the tenancy to paint the external wood and iron work with two coats of good oil paint.

(*b*) To cause the staircases hall and passages of the said mansions to be kept in a clean and orderly condition and a good decorative state of repair [and suitably carpeted] and to maintain the said passenger and service lifts (unless prevented by accident) in good working order and continuously available by day [and night] for the use of the tenant his family friends and visitors.

(*c*) To keep the said flat halls staircases and passages properly heated by means of the existing radiators and central heating apparatus during the period between [Oct. 1st. and March 31st.] and to keep the said radiators and central heating apparatus in good and efficient order and condition.

(*d*) To employ in the said mansions a respectable and responsible hall porter who shall be resident on the premises and at least one respectable and efficient underporter and between the hours of —— p.m. and [7] a.m. a respectable and efficient person as night porter. [But the landlord shall not be responsible for any dishonesty or neglect of duty on the part of any of such porters].

(*e*) To pay all rates taxes and assessments whatsoever including water rate in respect of the said flat.

(*f*) To insure and keep insured the whole of the said mansions [*or* the said flat in the full value thereof] with some substantial insurance company and to rebuild the same in the event of destruction by fire unless such fire is caused by the tenant's wilful default, and until such rebuilding to excuse the tenant except in the case of such default as aforesaid from all payment of rent.

(*g*) That the tenant duly paying the said rent (including the said sums for cleaning, lighting and heating), and performing and observing the conditions hereof shall quietly enjoy the said flat without lawful interruption by the landlord or any person claiming under or in trust for him.

4. [*Power of re-entry as in Form* 131, *clause* 3, p. 215, *substituting* the tenant *for* the tenants.]

5. This tenancy may be determined at the end of the [3rd] year thereof by either party hereto [*or* by the tenant] by giving [3] calendar months' previous notice in writing to the other party [*or* the landlord] at his last known place of address.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

REGULATIONS.

1. The tenant shall not keep any dog or noisy or dangerous animal or bird in the said flat without the written consent of the landlord.

2. The tenant's name shall be painted by some person employed by the landlord in the hall in the space provided by the landlord for that purpose at the tenant's expense, such expense not to exceed —— shillings.

3. All heavy and cumbersome goods and all victuals delivered to the said flat shall so far as possible be so delivered by the service lift only.

4. All rubbish ashes refuse and waste material required to be removed from the flat shall be placed ready for removal in suitable closed receptacles in the service lift before 8 a.m. each morning.

5. All coals required for the day's use will be delivered by the hall porter or the under porter from the cellar to the flat by means of the service lift before 8 a.m. (but not afterwards) the tenant providing a suitable receptacle therefor.

6. No perambulators bicycles parcels boxes or goods shall be placed by the tenant his family or servants on any part of the hall staircase or passages of the mansions.

7. The floors of all rooms and passages in the flat shall be covered with carpet rugs or other thick material in such a way as to prevent the occupants of other flats suffering annoyance from noise.

8. No piano or other musical instrument shall be played nor shall the tenant permit any singing in the said flat between the hours of [11] p.m. and [10] a.m.

9. No furniture shall be removed from the said flat on Sunday or any public holiday or before [8] a.m. or after [5] p.m. on any week-day.

10. All complaints shall be made to the hall porter except complaints as regards the conduct of the hall porter which complaints shall be made to the landlord in writing.

[*Signatures of both parties.*]

133.

TERMS for Letting a Farm (*k*).

TERMS of letting by [*landlord*] of &c. to [*tenant*] of &c. of a FARM called The —— Farm, situate at —— in the county of —— comprising —— acres, more or less, and consisting of the farmhouse, homestead, and the several fields, [down and gorse lands, plantations and coverts] described in the Schedule hereunder written.

1. TERM, —— years, from the —— day of —— instant [*or* one year certain from the —— day of —— and thenceforward until determined

(*k*) Stamp. *Ad valorem* on rent reserved. For the law applicable to agricultural holdings see Agricultural Holdings Act, 1923 (13 & 14 Geo. 5, c. 9), and Halsbury's Laws of England, title "Agriculture," vol. 1, pp. 239 *et seq.*

by either the landlord or the tenant by twelve (*l*) calendar months' notice in writing to expire at the end of any year of the tenancy].

2. RENT £——, payable half-yearly on the —— day of —— and the —— day of —— in every year the first payment to be due on the —— day of —— next.

3. ADDITIONAL RENTS, £—— for every acre of meadow or pasture land converted into tillage without the licence, in writing, of the lessor, and £—— for every oak, ash, elm, or other timberlike tree felled, cut or lopped without such licence as aforesaid [*or as the case may be*] (*m*).

4. RESERVATION of all timber, plants, saplings, [quarries, clay and sand beds, mines] minerals, and casual profits, and all game (subject to the provisions of the Ground Game Act, 1880, and the Ground Game (Amendment) Act, 1906 (*n*), fish and [fish] ponds, save the use of the water for cattle.

TENANT'S AGREEMENTS.

5. To pay the rents at the times aforesaid and all taxes except the land-tax and landlord's property-tax.

6. To keep the premises (except the external parts of the buildings) in tenantable repair, with liberty for the lessor and his workmen and others with his authority, to view the state of repair, and to repair.

7. To find straw for thatching buildings.

8. To make, cut, cleanse and scour all hedges, banks, fences, ditches, open drains and water-courses and the mouths of all under-drains.

9. To manure the arable land with lime after the rate of —— bushels (being —— hogsheads) per acre.

10. Not to sell or remove from the farm any manure, but to carry forth and spread in a husbandlike manner all manure, dung, compost and ashes arising from or made on the farm.

11. To consume on the farm all hay, straw, roots or green crops produced thereon (*o*).

12. To leave such part of the hay, straw and roots grown in the last year of the term as shall not be necessarily consumed, to be taken at a valuation by the lessor or the incoming tenant according to the market price [or consuming price] thereof.

13. To cultivate the lands according to the most improved system

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(*l*) Notwithstanding any contrary agreement, 12 months' notice is necessary (Agricultural Holdings Act, 1923, s. 25), which applies also to a notice given under a power in the lease to determine a tenancy of 21 years at the end of the seventh year (*Edell* v. *Dulieu*, [1924] A. C. 38). But see *ibid.* s. 15, for the case where the landlord's mortgagee takes possession. As to service of the notice, see *ibid.* s. 53, and *Van Grutten* v. *Trevenen*, [1902] 2 K. B. 82. As to compensation for disturbance, see Agricultural Holdings Act, 1923, s. 12, *Westlake* v. *Page*, [1926] 1 K. B. 298; and *Richards* v. *Pryse*, [1927] 2 K. B. 76, C. A.

(*m*) Penal rents are abolished, except for breach of conditions prohibiting the breaking up of permanent pasture, the grubbing of underwoods, or the felling, cutting, lopping or injuring of trees, or regulating the burning of heather: *ibid.* s. 29.

(*n*) 43 & 44 Vict. c. 47; 6 Edw. 7, c. 21.

(*o*) See Agricultural Holdings Act 1923, s. 30 (1); and *Meggeson* v. *Groves*, [1917] 1 Ch. 158.

of agriculture [or according to the custom of the country] having regard to the nature of the soils and previous cultivation so as not to injure or deteriorate the lands (*p*).

14. To permit the incoming tenant to enter upon —— acres of arable land on the —— day of ——, for preparing for the succeeding wheat crop and —— acres of the wheat stubble, on the —— day of —— preceding the expiration of the letting.

15. To stone-drain annually, in a proper manner, —— acres of the [pasture] lands in proportion to every £—— of the rent, on being allowed, by the landlord —— shillings per rod on account thereof.

16. To destroy moles and throw ant-hills.

17. To cut rushes and nettles twice a year so as to prevent their seeding and to spit and root up all briars, thistles and docks incumbering the lands.

18. To permit the landlord to enter on the land for purposes of sporting and to fell or plant trees and acorns, to open hedges, to put up gates for the purpose of making, and to make rides and carriage-ways, and afterwards to ride and drive thereon, at pleasure, the lessor paying for any damage occasioned thereby such damage to be ascertained by valuation, as before mentioned.

19. To find carriage for, and to convey to that part of the premises where and when it shall be wanted, all materials for the repairs of the buildings and fences to be demised, as aforesaid.

20. To reside in the farmhouse.

21. To permit his name to be used in forbidding trespassers, sportsmen as well as others, and in prosecuting such trespassers on being indemnified by the lessor.

22. NOT to break up meadow or pasture, whether or not laid down during the tenancy (*q*), or to dig or open the same for gravel, clay, sand, chalk, or marl to be carried off the premises.

23. NOT to mow any part of the pasture land more than once in each year nor more than two years in succession without sufficiently manuring the same.

24. NOT to feed or depasture more cattle in the last year of the letting than in any of the two preceding years, or so as to injure the lands by treading, in the winter months.

25. NOT to mow any clover in seed in the last year of the letting.

26. NOT to grub up, fell, lop, top, or shroud any oak, ash, or pollard tree, plant, or sapling.

27. NOT to cut hedges or hedgerows without giving the landlord, or his steward or bailiff, one week's previous notice, and to cut and make them as well as the coppices at seasonable times only, and not until they are of —— years' growth, and to let up and protect all such plants and saplings as shall be thereon at the time of such cutting and making.

(*p*) See Agricultural Holdings Act, 1923, s. 10.
(*q*) See *Rush* v. *Lucas*, [1910] 1 Ch. 437; *Clarke-Jervoise* v. *Scutt*, [1920] 1 Ch. 382.

28. NOT to feed cattle in the water meadows, except sheep, after the —— day of ——, in the last year of the letting, from which time the incoming tenant is to be at liberty to enter on the same to clear out the gutters and gullies, and to repair the trenches, ditches, bridges, and water-carriages.

29. NOT to assign, underlet, or otherwise part with the possession of the premises, or any part thereof, without lessor's previous consent in writing.

30. NOT to agist horses or cattle, except sheep, in or upon the said premises (*r*).

LANDLORD'S AGREEMENTS.

1. To keep the external parts of the farm-house, and all the buildings, in good repair, on being provided with straw by the lessee as aforesaid.

2. To allow rough timber and materials for tenants' repairs [within —— miles of the farmhouse].

3. For quiet enjoyment, on performance of lessee's covenants, and conditions aforesaid.

4. That the tenant paying on entering a valuation for all the underwood on the said farm down to the stem for necessary labour to land after harvest for rent and taxes to fallows if left in a fitting state for a wheat season for manures whether in mixens yards or carted on the land for hay at a feeding price [for hop holes on all hop land] and for such other things as are usually paid for by an incoming to an outgoing tenant shall be entitled to be paid a similar valuation on quitting such valuation to be made by two valuers or their umpire to be appointed in the usual manner but the incoming tenant shall be entitled to all straw for threshing and carting the corn to market within five miles of the farm.

SCHEDULE.

[*Particulars of lands.*]

I [*tenant*] hereby agree to hold the above-mentioned premises on the above terms.

[*Signature of tenant.*]

I [*landlord*] hereby accept the said [*tenant*] as tenant of the above-mentioned premises on the above terms.

[*Signature of landlord.*]

Dated the —— day of ——.

134.

AGREEMENT for Lease of a Farm. General Form (*s*).

THIS AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called the landlord), [*or* [*agent*] the steward or agent

(*r*) See *Richards* v. *Davies*, [1921] 1 Ch. 90.

(*s*) Stamp. *Ad valorem* on the rent. This form is not intended for general use, but to supply such clauses as may be found applicable, upon each occasion, when

of [*lessor*] of &c. *or* [*receiver*] receiver of the rents of the estates [in ——] of the [*lessor*] of &c. for and on behalf of the said [*lessor*]], of the one part and [*lessee*] of &c. (hereinafter called the tenant) of the other part.

WITNESSETH that the landlord hereby, [and by virtue of every power and authority in him vested, or enabling him in this behalf,] agrees with the tenant that he will forthwith [*or*, on or before the —— day of —— next] [*or*, when thereunto required, in writing, within —— years now next ensuing] grant to the tenant at the cost of the tenant, who hereby agrees to accept a valid lease of ALL THAT farm called or known by the name of "—— Farm," with the farmhouse cottages, except as hereinafter mentioned, barns, stables, outbuildings, yards, gardens, and several closes of arable, meadow, [down,] and pasture land, specified in the [First] Schedule hereunder written (be the several quantities therein stated more or less), situate at or near —— aforesaid and now in the occupation of the landlord.

[AND ALSO [*if so*] the exclusive right of sporting, killing and taking away all the game (*t*) and wild-fowl, and the exclusive right of fishing and taking fish in the rivers, ponds, and streams on and running over the said lands [except private ponds and fisheries], and all easements, rights, and appurtenances to the said premises belonging upon the terms following:—

1. There shall be excepted and reserved out of such demise as follows:—

(*a*) Woods, underwoods, timber, and other trees, pollards, plants, saplings, oak and ash stemmers, and ornamental and weather bushes now growing or which shall, during the term, grow on the said farm and all lops, tops, and shrouds thereof, but not of pollards.

(*b*) The right for the landlord and his surveyor bailiff, and servants to inspect the farm twice or oftener in every year, and at all seasonable times to thin, trim, fell, grub up, lop, top, faggot, and plant trees, saplings, shrubs, bushes, quicksets, and acorns [in the hedges and hedge-rows or elsewhere] on the said premises.

[(*c*) *If sporting rights are reserved* the exclusive right of sporting, hunting, coursing, killing, and taking away all game and wild-fowl, and of fishing and taking away fish in all rivers, streams, ponds, and waters on or running over the said lands, subject

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adopting the next form. For statutory powers of leasing see Law of Property Act, 1925 (15 Geo. 5, c. 20), ss. 8, 28, 99; Settled Land Act, 1925 (15 Geo. 5, c. 18), ss. 29, 41–48, 108–109; and Administration of Estates Act, 1925 (15 Geo. 5, c. 23), s. 39.

For forms of Agricultural Leases see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 8, pp. 467 *et seq.* The terms of these leases vary considerably according to the localities in which the properties are situate.

(*t*) By the Game Act, 1831 (1 & 2 Wm. 4, c. 32), *game* is stated to be hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards (s. 2). And by the Ground Game Act, 1880 (43 & 44 Vict. c. 47), s. 8, ground game is deemed to mean hares and rabbits only.

to the tenant's rights under the Ground Game Acts, 1880 and 1906] (*a*).

(*d*) All royalties, mines, minerals (*b*), ores, brick-earth, clay, marl, chalk, sand, gravel, and casual profits arising on the said premises during the said term.

(*e*) Full liberty of ingress, egress and regress for the landlord and his family, friends, servants, workmen, and others authorised by him, with or without horses, dogs, animals, implements, waggons, carts, carriages, and other vehicles, except as hereinafter mentioned, to pass and repass in, over, and upon the said lands for the purpose of fully exercising and enjoying the rights hereinbefore excepted and reserved or for pleasurable purposes; making the tenant, nevertheless, full compensation for all loss or injury which shall be occasioned him by the exercise of such rights.

(*f*) The right of taking, at all or any time or times, and in any place or places, any portion or portions of land the landlord or his successors in title may think proper, not exceeding —— acres in the whole, for the purpose of planting, building, making or altering roads, or for any other purpose specified in section 27 of the Agricultural Holdings Act, 1923, after giving the tenant —— weeks' notice thereof, in writing, the landlord abating a fair proportion of the annual rent payable for the same, as well as making a proper compensation for any crops, loss, or damage occasioned by the exercise of such right, the amount of such abatement and compensation, if the parties disagree, to be, in each case, ascertained and determined by reference as hereinafter mentioned.

2. The term of the said lease shall be —— years from the —— day of —— unless previously determined as hereinafter mentioned.

3. The rents reserved by the said lease shall be as follows:—

(*a*) A yearly rent of £—— payable by equal quarterly payments on the usual quarter days [*or* by equal half-yearly payments *specifying the agreed dates*], clear of all deductions, except land-tax (*c*) and landlord's property-tax, the first payment thereof to be made on the —— day of —— next. [*If so agreed, here add*—but the last of such quarterly [half-yearly] payments before the determination of the term, whether by notice or the expiration of the term, shall be payable, in advance, on the

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(*a*) As to tenant's right to compensation for damage to crops by game which he has no right to kill, see Agricultural Holdings Act, 1923, s. 11.

(*b*) As to the custom in a flinty district for the tenant to remove and sell flints turned up by the plough, see *Tucker* v. *Linger* (1883), 8 App. Cas. 508.

(*c*) With regard to tithe rentcharge the Tithe Act, 1891 (54 & 55 Vict. c. 8), s. 1, sub-s. (1), enacts: "Tithe rentcharge as defined by this Act (see s. 9, sub-s. (2)) issuing out of any lands shall be payable by the owner of the lands, notwithstanding any contract between him and the occupier of such lands, and any contract made between an occupier and owner of lands after the passing of this Act for the payment of the tithe rentcharge by the occupier shall be void." No provision as to payment of tithe rentcharge is therefore of any value.

quarter day next preceding such determination [*or*, on the —— day of —— in the [last] year of the term]], and if the tenancy be determined by re-entry between two days of payment, a proportional sum to be paid on the day of determination for the time between such day and the last preceding day of payment, and be recoverable accordingly. [*If the rent is to be governed by the corn averages, add*—Provided always that the yearly rent hereinbefore mentioned, shall be payable and paid during the first —— years of the said term, and, at the expiration thereof, the average price of wheat during such —— years shall be taken or ascertained according to the average prices shown in the London Gazette, and in case such average, during that period, shall be found to exceed the sum of £—— per load, then the said rent shall be increased to the sum of £—— per annum, during the then residue of the said term, and be payable and paid in lieu of the said yearly rent of £—— per annum, but if such average, during the said period, shall be found to be less than the sum of £—— per load, then the said yearly rent shall be reduced to the sum of £—— per annum, during the then residue of the said term, and be payable and paid in lieu of the said yearly rent of £—— per annum. [*If it is intended that the rent shall fluctuate and follow the averages after the first time of taking them, as above, add*—such increased or decreased rent shall thereafter be paid annually, according to such averages, which shall be taken yearly [*or at other periods*] during the said term.]] (*d*)

(*b*) The several further contingent rents or sums following, namely, the rent of £—— for every acre, and so on in proportion for a greater or less quantity than an acre, of the meadow or pasture land respectively described as such in the [First] Schedule hereunder written, or which shall during the said term be laid down in permanent grass at the expense of the landlord, or under any special arrangement with him that it shall remain as pasture, which the tenant shall plough, break up, or convert into tillage.

(*c*) The further sum of £—— as liquidated damages for every tree, pollard, plant, sapling, stemmer, or ornamental or weather bush, which the tenant, or his servants, or workmen, by his direction or with his consent or knowledge, shall shroud, lop, top, cut down, bark or injure, and for every time he or they shall do so, except the now existing pollards, at seasonable times and of a proper growth.

(*d*) The further sum of £—— for every acre of the meadow and pasture grounds which he or they shall omit to fold with sheep, or dress with lime, soap, or coal-ashes, or other good and proper manure, contrary to this agreement, or shall mow oftener than once in three years [*or* mow two years in succession without sufficiently manuring the same (*e*)].

(*d*) See *Kendall* v. *Baker* (1852), 11 C. B. 842.

(*e*) Notwithstanding this clause, the landlord can only recover the damage actually suffered by him in consequence of the tenant's breach of the agreement (Agricultural

(*e*) The further sum of —— shillings as liquidated damages for every perch of the ditches, trenches, water-carriages, or water-courses which the tenant shall refuse or neglect sufficiently to rhode or cleanse and for every perch of the new quickset hedges, now or hereafter to be planted on the said premises, which he shall refuse or neglect to weed or manure within —— days after notice in writing from the landlord, or his steward or agent, left at the farmhouse to do the same, and for every waggon-load of chalk which he shall neglect to bring and spread on the farm pursuant to this agreement. [*If it be intended to reserve a further contingent rent for holding over after the expiration of the tenancy, here add*—And the further sum of £—— daily and every day, during which he shall hold the said farm, lands, and premises after the expiration or sooner termination of the said term, contrary to the stipulations hereinafter contained (*ee*)].

4. The said contingent rents shall respectively commence and be paid on the first of the said rent-days as shall happen next after the same shall respectively become payable as aforesaid, and (save as hereinbefore provided) continue payable from thenceforth during the residue of the said term (*f*).

5. Until the said lease shall be actually granted the said farm shall be held, managed, and enjoyed by the tenant [who hereby admits he has this day taken possession thereof] in all respects according to the terms and stipulations herein contained.

6. The said lease shall, in all respects, be in conformity herewith, and particularly shall contain the following covenants on the part of the tenant, namely:

(*a*) At all times during the tenancy to pay the several rents hereinbefore reserved, in manner aforesaid;

(*b*) To pay all rates, taxes, and assessments, whatsoever payable in respect of the said farm except land tax, and landlord's property tax.

(*c*) To perform all personal and parochial offices and services in respect of the said premises.

(*d*) At his own cost, during the said term, well and sufficiently thatch, with good clean wheat straw, and (as to reed or straw, and laying up), scour, cleanse, and keep in tenantable [*or* good and substantial] repair, order, and condition [as he admits them to be now in], damage by fire, floods, dry-rot, and unavoidable accidents excepted, all the [internal parts of the] present and future buildings [but without altering the form or elevation thereof], including [closets], windows (as to lead and glass), doors, locks, bolts, bars, fastenings, ornamental [iron, wire, and

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Holdings Act 1923, s. 29). It is immaterial whether the words used are "penalty" or "liquidated damages" or "additional rent" or any similar expression (*Rolfe* v. *Petersen* (1772), 2 Bro. Parl. Cas. 436; *Jones* v. *Green* (1829), 3 Y. & J. 298, Ex. Ch.).

(*ee*) See note (*e*) above.

(*f*) These increased or penal rents do not involve extra stamp duty. (Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 77 (1).)

wood] work, wells, pumps, pipes, drains, sewers, cesspools, farm-roads, hedges, banks, ditches, trenches, channels, brooks, water-courses, dams, water-carriages, hatches, gates, posts, bars, stiles, rails, pales, fence-walls, and other fences of and belonging to the said farm, during the said tenancy, on being allowed, on request in writing, [and provided at the lessor's timber yard,] sufficient rough materials [*Or*, [sawed] timber, tar, bricks, tiles, stone, and lime], [and gates at —— shillings each (*g*)] for the purpose.

(*e*) To prune, train, and preserve all the fruit and ornamental trees, shrubs, and plants [in the orchard, gardens, pleasure grounds, hothouses, greenhouses, verandahs, and walls] on the said farm.

(*f*) To leave the premises in such repair as aforesaid and the gardens and shrubberies properly stocked, planted, manured, cleaned and preserved, at the expiration or sooner termination of the said tenancy, damage occasioned as aforesaid excepted; but in such cases of fire, flood, or tempest, the tenant shall furnish, gratis, sufficient reed and straw for thatching, if so much shall then be available for that purpose on the said farm.

(*g*) To permit the landlord, his agents, bailiffs, or servants, whenever the landlord shall think proper, at reasonable times, to enter on any part of the said building and lands, and to view the state and condition thereof and if the same shall not, upon any such occasion, be found conformable, in every respect, with this agreement, and the tenant shall not within —— calendar months next after notice, in writing, containing the particulars of the parts found out of such repair and condition as aforesaid shall have been delivered to, or left for him at the said farmhouse repair the same accordingly, the landlord shall be at liberty to enter on the said premises with workmen, servants, and others, and to do such repairs and necessary works and all expenses incurred by the landlord in and about such repairs and works shall be repayable by the tenant on demand.

(*h*) To fetch and carry gratis, any distance not exceeding —— miles, all such [timber, brick, tiles, stones, lime and other] materials as shall be wanted for keeping the said premises in repair as aforesaid.

(*i*) To convert into good manure, with cattle, sheep, and pigs, all the hay and straw (except such as may be required by the landlord or for thatching the buildings), reed, old thatch, haulm, chaff, dust, fodder, clover, artificial grasses, cabbages, root crops, and other produce of the said farm that can be converted into manure, except potatoes and other [vegetables and] things grown for domestic use and to spend and spread the same in a husbandlike manner on the said land, and to leave

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(*g*) As to whether the lessee's covenant to repair depends on the lessor finding the timber, see *Thomas* v. *Cadwallader* (1744), Willes, 496; *Martyn* v. *Clue* (1852), 18 Q. B. 661; *Bristol (Dean)* v. *Jones* (1859), 1 E. & E. 484; *Tucker* v. *Linger* (1882), 21 Ch. D. 18, 30; *Westacott* v. *Hahn*, [1918] 1 K. B. 495.

in the yards, or other convenient places on the said farm, all the manure so to be made as aforesaid, except such parts thereof as shall be spent or used on the said lands as aforesaid.

(*k*) In the last year of the said term not to fodder any cattle with straw in the fields, but to spend the same in the said yards.

(*l*) At any time after the —— day of —— in the last year of the said term to permit the landlord or his incoming tenant, to carry out the dung, manure, and ashes, and to lay up the same in mixons on some convenient part of the said premises or in the fields coming in course for wheat.

(*m*) On the [6th] day of [August] in the last year of the said term to permit the landlord or his incoming tenant to enter on such parts of the lands as shall be in clover-lay and in course to be sown with wheat to the extent of one half-part of the area to which he shall be entitled for such crop, for the purpose of carrying out manure (*h*) thereon and on the [1st] day of [September] on the other half-part thereof from which time the landlord or his incoming tenant shall have a right to plough and prepare all the said lands for a wheat-crop except such part thereof as may be bearing turnips or other green crops, to be fed off for such crop; which lands the tenant may hold until the said crops shall have been fed off, but not later than the end or termination of the tenancy, he giving them up when and as they are fed off.

(*n*) To permit the landlord or his incoming tenant, in the last year to sow a sufficient quantity of clover, or other grass seed, with the last Lent crop, and harrow such seed in a husbandlike manner, gratis.

(*o*) At all times after the —— day of ——, in the last year of the said term to allow and deliver to the landlord or his incoming tenant, convenient room in the farm and other houses, stables, granary and other outbuildings, and part of the gardens.

(*p*) To sell to the landlord or his incoming tenant, for fodder, as much of the chaff arising from the two last crops, and as much straw for litter and thatching the hay and corn ricks arising in the year next after the expiration of the said term as shall be required for those purposes, at a spending price on the said farm such purchase to be settled by reference, as hereinafter mentioned, if the parties disagree.

(*q*) To use, cultivate and manage the said farm and lands properly and consistently with good husbandry according to the custom

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(*h*) It used to be stipulated that the outgoing tenant should surrender absolutely the lands coming in course for wheat; but now the better opinion and stipulation seems to be that here expressed; inasmuch as this tenant pays rent for the land until Michaelmas, he is entitled to all the feed of it until it comes to be ploughed, and the incoming tenant is, in fact, only entitled to a permissive right of entry for ploughing. As to the legal right to stacks of hay and straw produced during the last year of the tenancy, see *Re Powers, Manisty* v. *Archdale* (1890), 63 L. T. 626.

of the country and keep and leave the same clean and in good heart and condition and so as not to injure or deteriorate the holding (*i*).

(*r*) In the last year of the said term to leave at least one —— part of the arable lands, of as good a quality as the average of the other arable lands, in one or more years' clover-lay, or properly prepared and in due course for wheat. [*Or* Not, in the last year of the said term, to have more than two-fifth parts of the arable lands usually sown on a five-course system *or*, more than one-half part thereof on a four-course system, or more than two-third parts of the clay or sandy lands laid in corn or grain, including swede, turnip, or rape-seed to be taken from off the said lands in due course of husbandry.]

(*s*) At all reasonable times during the said term, and as long afterwards as he shall be entitled to keep sheep to keep not less than —— sheep on the said farm, and pen and fold the same in a husband-like manner, on some proper part of the said lands, and, in the last year thereof constantly so pen and fold —— sheep thereon where the landlord, or his [steward or] agent, shall direct but so as not to injure such sheep in such last year, and till the sheep shall be removed from the said farm to keep as great a number of sheep thereon as he shall have been accustomed to keep of his own sheep thereon during the two preceding years, and at the same season of the year.

(*t*) Twice in every year of the said term to cut the rushes, nettles, and weeds, and spit and root up the docks and thistles before they seed and, immediately after they shall be cut, remove them from the fields and the fences and borders thereof and from time to time grub the blackthorns and briars, so as to keep and leave the hedges within their proper bounds, and the meadow and pasture lands unincumbered and to yearly scatter and spread all the ant-hills, mole-hills [except on the down lands], and dung falling and found in or upon the meadow or pasture lands and yearly [in the winter] roll such parts thereof as shall be uneven and require it.

(*u*) Not improperly to stock the said meadow and pasture lands with cattle or graze any of the artificial grasses from the seeds sown in the last year preceding the termination of the said term, except with well-ringed swine, calves, or lambs.

(*v*) Not to mow any of the dry meadow-lands more than once in any one year, and not more than two years in succession without [a good and] sufficient manuring.

(*w*) Not to burn whin, gorse, heather, or rough pasture without the consent in writing of the landlord or his [steward or] agent; or cut the furze at improper seasons, or more than —— acres annually, or of less than —— years' growth.

(*i*) See the Agricultural Holdings Act, 1923, s. 30, as to the tenant's right of freedom of cropping.

(*x*) Not to cut or plash any of the pollards, hedges, or hedgerows at unseasonable times, or of less than —— years' growth or suffer the same to be more than —— years' growth before they are cut or plashed but to cut and plash all the hedges and hedgerows adjoining the arable lands at such time only as the ground on one side thereof shall be in tillage for the first crop after a new breach and when the same hedges and hedgerows are so cut and plashed to scour and throw the ditches, and repair the banks adjoining the same in a husbandlike manner.

(*y*) At all times to give to the landlord or his [steward or] agent, at least —— day's notice of his or their intention to plash or new make any of the hedges, or to cut any of the hedgerows, in order that he may mark such saplings and stemmers as he may think proper to stand for timber and other purposes, to preserve such saplings, stemmers, young plants, thorns, quicksets, and apple-trees ; and not permit pigs or cattle to graze, depasture, or run over the orchards.

(*z*) To scour and cleanse all the streams, rivulets, and marshes as often as they may require it to prevent injury to the said lands and under-drain such of the lands as the landlord shall appoint, on being allowed —— shillings per rod for the same or to permit the landlord to do the same, on having a proper allowance in respect of any damage arising therefrom, the amount of such allowance to be ascertained by valuation as hereinafter mentioned.

(*aa*) To plant a young apple-tree, of a good sort, in the room of every apple-tree that may die or be blown down during the said term, taking the old tree instead, and properly fence and preserve every such new tree.

(*bb*) Not without the consent of the landlord or his [steward or] agent permit any new road, or foot or other paths to be made or used over any part of the said lands, or alter any of the buildings, or the hedges, fences, landmarks, or boundaries thereof.

(*cc*) In every other respect, to manage the said lands according to the most improved rules of good husbandry, and with a view to the general improvement thereof, and keep, and on the termination of the tenancy, leave the same in good order, heart and condition, at the times hereinafter mentioned.

(*dd*) Yearly, when required to deliver to the landlord or his [steward or] agent, an account in writing of the state of the tillage as well of all the arable as of the meadow or pasture lands which shall have been dressed, folded, or manured in the preceding year (*j*).

(*ee*) To preserve all manner of game, wild fowl, snipes, woodcocks, quails, landrails, and the nests, eggs, and young thereof and fish which from time to time shall be bred, located or found on the said lands (*k*).

(*j*) In default of agreement the cost of making such record would be borne by the landlord and tenant in equal shares (Agricultural Holdings Act, 1923, s. 32).

(*k*) If the tenant has the sole right of sporting, this clause must, of course, be omitted.

(*ff*) [*If the tenant is to insure the buildings, here insert the following :—* Forthwith, after entering upon the said farm, to insure and, during the said term, keep insured, in the name and for the benefit of the landlord the said farmhouse, cottages, and buildings, in some fire insurance office approved, and to the amount required by him ; and [if requested] to deliver the policy of such insurance, and within —— days from the day when the same shall have become due, produce the receipts for the premiums, to the landlord, or his [steward or] agent.

(*gg*) At the request of the landlord, or his [steward or] agent, to sign and give notices, forbidding all persons without due authority from trespassing or sporting over or upon the said premises, and give him the names of persons so trespassing and to give evidence and permit his name to be used in any actions, or prosecutions which the landlord shall think proper to institute against such trespassers, on being indemnified by him from all costs and expenses attending and relating thereto, except such as may be incurred by or through his wilful acts or neglect and not to withdraw from, disavow, or become nonsuit in, or otherwise retard, stay, or discharge any such action or proceedings and all penalties, damages, and costs which may be recovered in any action or proceedings shall belong to the landlord absolutely.

(*hh*) Not to assign, demise or underlet the said farm, or any part thereof, [except the dairyhouse and cottages] [*or* take in any horses, cattle or sheep to graze on the said farm] or alter the farmhouse or other buildings without such consent of the landlord or his [steward or] agent.

7. In case the landlord shall desire at any time or times during the said term to resume possession of any part or parts of the said land for the purpose of building, mining, making roads, or for any other purpose specified in s. 27 of the Agricultural Holdings Act, 1923, not being the use of the land for agriculture and of such desire shall give [six] calendar months' notice in writing to the tenant, he shall on the expiration of such notice be at full liberty so to do, on his allowing the tenant a fair and reasonable abatement of rent and compensation for the crops.

8. The said lease shall contain covenants by the landlord as follows :—

(*a*) That it shall be lawful for the tenant to hold over free from rent, the land in wheat-stubble till the landlord or his incoming tenant shall plough the same, the meadow land till the —— day of ——, the pasture land till the —— March the land in summer turnips in the last year, till the turnips shall have been fed off [*or* till the —— day of —— next after the end of the said term] (*l*) and a part of the farmhouses, offices, granary, stables,

(*l*) It is now customary, in some localities, for the lands in course for turnips to be given up in the March previous to the termination of the term or tenancy, the incoming tenant paying for the tillages done on them. He then puts in his own crop instead of the outgoing tenant holding over for the purpose of consuming the crop arising from the seed sown by him.

and other outbuildings and the gardens to be respectively assigned by the landlord, or his [steward or] agent, and the whole of the barns, and rickyards till the —— day of —— next after the expiration of the tenancy [*or* and also that the days next hereinafter mentioned shall be the days of entry and quitting of the several portions, of the said farm, namely—the farm buildings [and cottages], arable, pasture, meadow, and other lands, on the —— day of —— [*New Michaelmas*]—the farmhouse and offices, on the —— day of —— next [*Old Candlemas Day*], and the barns, stack-yards, and a portion of the granary for the purpose of thrashing, dressing, and preserving the corn, grain, and pulse produced from the last year's crop, on the —— day of —— [*New Lady Day*] following].

(*b*) That the landlord will half-yearly allow out of the said yearly rent the land-tax, and landlord's property tax [and any other sum paid by the tenant for, or on his account], on production of proper vouchers for the same.

(*c*) That the landlord will allow and deduct out of the rent half-yearly, the following sums per acre, and so in proportion to a greater or less quantity than an acre, of the land hereby demised containing clay, chalk, stone, sand, and gravel, or any or either of them, which he shall require to be given up under the stipulation hereinbefore contained, namely, the annual sum of £—— for clay and £—— for chalk [*and so on*].

(*d*) At the termination of the tenancy to pay or allow to the tenant out of the said yearly rent, the value of the sowing of the clover or young grass-seeds sown by him and then growing on the said farm and sown with seeds of good qualities, in proper proportions and in due course for the crops, provided the same shall not have been stocked except with well-ringed swine, calves, or lambs, and also the value of the cinquefoil roots, of not more than —— years' growth, the value of such seeds, roots, and sowing to be ascertained by valuation as hereinafter mentioned.

(*e*) To pay or allow to the tenant a consuming price for the hay and all seeds, mangold, swedes, turnips, and other root crops and artificial manures sown and produced in the last year of the said term, and remaining on the farm at the termination thereof, as well as for tillages and dressings for the ensuing crops at a valuation to be made as hereinafter mentioned.

(*f*) To pay or allow to the tenant one half the value of the tillages, [dressings], and manures for each crop on the lands in course for wheat, from which the tenant shall have taken two successive green crops such value to be ascertained by valuation as hereinafter mentioned.

(*g*) To pay or allow to the tenant by way of compensation and in substitution for compensation payable for improvements

under the Agricultural Holdings Act, 1923 (*ll*) (so far as such substitution is allowed by the said Act), for any of the improvements specified in the [second] schedule hereunder written

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(*ll*) The improvements specified in the first and third schedules to this Act are as follows :—

FIRST SCHEDULE.

PART I.

Improvements to which consent of landlord is required.

(1) Erection, alteration, or enlargement of buildings.
(2) Formation of silos.
(3) Laying down of permanent pasture.
(4) Making and planting of osier beds.
(5) Making of water meadows or works of irrigation.
(6) Making of gardens
(7) Making or improvement of roads and bridges.
(8) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
(9) Making or removal of permanent fences.
(10) Planting of hops.
(11) Planting of orchards or fruit bushes.
(12) Protecting young fruit trees.
(13) Reclaiming of waste land.
(14) Warping or weiring of land.
(15) Embankments and sluices against floods.
(16) The erection of wirework in hop gardens.
(17) Provision of permanent sheep-dipping accommodation.
(18) In the case of arable land the removal of bracken, gorse, tree-roots, boulders, or other like obstructions to cultivation.

[N.B.—*This part is subject as to market gardens to the provisions of the Third Schedule.*]

PART II.

Improvements in respect of which notice to landlord is required.

(19) Drainage.

PART III.

Improvements in respect of which consent of or notice to landlord is not required.

(20) Chalking of land.
(21) Clay-burning.
(22) Claying of land or spreading blaes upon land.
(23) Liming of land.
(24) Marling of land.
(25) Application to land of purchased artificial or other purchased manure.
(26) Consumption on the holding by cattle, sheep, pigs, or by horses other than those regularly employed on the holding, of corn, cake, or other feeding-stuff not produced on the holding.
(27) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn proved by satisfactory evidence to have been produced and consumed on the holding.
(28) Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the determination of the tenancy in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.
(29) Repairs to buildings being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute : provided that the tenant before beginning to execute any such repairs shall give to the landlord notice in writing of his intention, together with

which may be made according to the scales [for such allowances] mentioned in the said [second] schedule, and in respect of drainage works all notices under the said Act (*m*) shall be dispensed with.

(*h*) That the landlord will, from time to time, when needful [*or* once in every —— years] repair in a substantial and workmanlike manner, all the roofs (including slate and tiles), main walls, [whether of brick, stone, or otherwise], and timbers belonging thereto and connected therewith, and paint, colour, and tar all such external parts of the farmhouse and buildings and walls as have heretofore been painted, coloured, or tarred so as to keep the same in a good state, having regard to the character of such respective buildings; but the tenant shall bear one —— part of the expense of and attending such painting, colouring, and tarring, and the whole expense of restoring any wilful damage done by him or his servants or workmen.

(*i*) [That the landlord will provide gratis the necessary horses and waggons, with drivers, for the purpose of removing from the fields and stackyards into the farm all the stacks of corn, grain, and pulse which shall be produced upon the said lands during the last year of the said term, and hire and draw a steam-engine, and coals and water for thrashing therewith, such coals not being more than —— miles distant (*n*)].

(*j*) That the landlord will provide gratis [within [10] miles from the farmhouse] all such rough timber, bricks, tiles, lime, sand, and other materials, except nails, as shall be necessary for repairing the buildings and walls, and for doors, gates, posts, bars, stiles, poles, rails, and [wood] fences, if used, belonging to the said farm as aforesaid.

(*l*) That the landlord will, with all practicable despatch, restore and repair all such parts of the demised buildings as shall be destroyed or damaged by fire, flood, storm, tempest, tumult, dry-rot, and accidents, the tenant doing the carriage for the same and, in case of fire or tempest, finding reed or straw for thatching gratis as aforesaid, and also will in every or either of such cases abate a due proportion of the said rent until the

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particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

THIRD SCHEDULE.

Improvements subject to special provisions in the case of market gardeners.

(1) Planting of standard or other fruit trees permanently set out;
(2) Planting of fruit bushes permanently set out;
(3) Planting of strawberry plants;
(4) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;
(5) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

(*m*) See Agricultural Holdings Act, 1923, s. 3 (4).

(*n*) If the tenant is to hold over, as in clause 8 (a), p. 231, *supra*, of course this clause must be omitted. It is introduced merely to meet exceptional cases.

said farmhouse and buildings shall be completely restored and fit for habitation and use.

9. Notwithstanding that part of the said rent is reserved in respect of game [and fish] hereby agreed to be demised the landlord shall have and may exercise the same powers and remedies by distress and sale for the recovery of the said entire annual rent as he would have been entitled to exercise in case such rent had been wholly payable in respect of the said farmhouse and lands only (*o*).

10. The receipt of the said yearly rent shall not, at any time, be deemed a waiver of any penalty or penalties which may have become payable under or by virtue hereof, or of the said intended lease when granted, in respect of any breach of covenant or agreement therein or herein contained.

11. In case of any distress being levied for rent, or otherwise under or by virtue hereof or of the said intended lease, the landlord shall be at full liberty to sell all the hay and straw taken under such distress, so that the same shall be consumed on the said farm or on some part thereof and the purchaser or purchasers thereof shall be allowed to consume the same thereon with his or their cattle without being, in any way, liable to be deemed trespassers, or to pay any compensation whatever for or in respect thereof.

12 The lease to be granted in pursuance of this agreement may be determined by either party at the end of the [fifth] year giving to the other of them [twelve] months' previous notice in writing (*p*).

13. All valuations in respect of tenant-rights, acts of husbandry, claims for dilapidations, or other claims, whether under this agreement or the said intended lease or otherwise howsoever, shall [at the joint expense of the said parties, in all things] be referred to and investigated and ascertained by two competent persons or valuers, one to be chosen by each party, and any question or difference arising between them shall be determined by arbitration in the manner provided by the Agricultural Holdings Act, 1923 (*q*).

(*o*) Without this stipulation, the landlord, under this agreement, could not legally distrain (*Warman* v. *Faithfull* (1834), 5 B. & Ad. 1042); but, after payment of rent under it, he may do so (*Cox* v. *Bent* (1828), 5 Bing. 185). Only one year's arrears of rent are recoverable, but the landlord may be able to distrain for rent which became due more than one year before the making of the distress, if it is for rent of which, in the ordinary course of dealing, payment is postponed (see s. 34 of the Agricultural Holdings Act, 1923, and *Ex p. Bull, Re Bew* (1887), 18 Q. B. D. 642. After bankruptcy of the tenant the distress is available only for six months' rent accrued due prior to the date of the order of adjudication (Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 35). As to distress generally, see Halsbury's Laws of England, title "Distress," vol. 2, pp. 117 *et seq.*

(*p*) See note (*l*) p. 220, *supra*. As to service of notices see Agricultural Holdings Act, 1923, s. 83.

(*q*) *I.e.* by a single arbitrator according to the provisions of the second schedule to the Act (s. 16), which section applies "notwithstanding any agreement under the contract of tenancy or otherwise providing for a different method of arbitration."

14. The said lease and counterpart shall contain the same or similar clauses, stipulations and agreements, to those hereinbefore contained, and all other covenants, clauses, and stipulations usually inserted in leases of a like nature, and in particular a proviso that if the said rents or either of them, or any part thereof respectively, shall not be paid when the same shall respectively become due [or within —— days thereafter] and no sufficient distress can be taken on the said premises for levying the same, or if the tenant shall assign, demise or underlet the said farm, or any part thereof, to any person or persons (except the dairy to a dairyman, and the cottages to labourers working on the said farm), without the consent, in writing, of the landlord or his [steward or] agent, or if the tenant shall become bankrupt, or file any petition under the bankruptcy laws, or shall make any composition with, or assignment of any of his effects, to or for the benefit of his creditors, or if the said premises or his stock, crop, or effects thereon shall be lawfully seized under any execution or other process, and shall not be redeemed within —— days next after such seizure, or on breach or non-performance of any of the agreements herein, or in the said lease to be contained, then in any of such events the landlord may re-enter upon the said land or any part thereof in the name of the whole, and thereupon and from thenceforth in any of the said cases, the said term, if the said intended lease be granted, shall cease, but if not, this agreement shall become void, without prejudice, however, to any rights [of action or other rights] which may have then accrued to either of the said parties.

15. The said lease and counterpart shall be prepared by [*solicitor*] of &c. the solicitor for the landlord and be approved by the solicitor for and on behalf of the tenant, and in case they shall disagree, by counsel to be mutually chosen by them on behalf of both the said parties, and the expense thereof, and of this agreement, and all matters and things incident thereto respectfully, shall be borne and paid by the said parties in equal shares [*or as may be agreed* (*r*)].

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of lands demised.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

PART I.

[*Particulars of improvements.*]

PART II.

For drainage, £—— per cent. on the capital [and labour] expended [and employed] therein :—

As to the matters falling within this section see *Simpson* v. *Batey*, [1924] 2 K. B. 666 ; *Rex* v. *Powell, Ex. p. Marquis of Camden*, [1925] 1 K. B. 641.

(*r*) The expense of the lease, in the absence of stipulation, is usually borne by the lessee and the cost of the counterpart by the lessor ; but sometimes the landlord pays his own solicitor's charges, except for the actual preparation of the lease and counterpart, and sometimes the more equitable arrangement is followed, and the whole expense born by them jointly.

PART III (*s*).

1. For bones used on the grass lands within twelve calendar months next preceding the termination of the said term, when no crop has been taken therefrom during such last year, the whole cost thereof. If used in the previous year, seven-eighths parts thereof, and so on, in the proportion of one-eighth part thereof less, for every year which has elapsed since such manure was first used thereon, but the cost is, in no case, to exceed £—— per acre, and the land is to be managed according to the agreement on the part of the tenant herein contained.
2. For guano or other artificial manures, of good, genuine quality, used within twelve calendar months before the end of the said term, for turnip or other roots or green crops, one-half the cost not exceeding [50*s.*].
3. For chalk, used within two years next preceding the termination of the said term, the whole cost thereof. If used in previous years, one-eighth less for each preceding year from the period of its being first used.
4. For lime used within one year next preceding the termination of the said term on land from which no crop has been taken, the cost price thereof at the kiln, but if used in the preceding year, only one-half the price, but not the cartage thereof in either case.
5. For linseed cake or other purchased artificial food [of genuine quality] given, within one year, to cattle or sheep, or for corn given to sheep on the said lands, one-third of the cost price, and one-sixth for that used in the year immediately preceding the last year of the said term.
6. For clay-burning, claying, and marling [*as valued*].

[*Signatures of both parties.*]

135.

AGREEMENT for Lease of a Farm. Shorter Form (*a*).

THIS AGREEMENT made the —— day of —— BETWEEN [*landlord*] of &c. (hereinafter called landlord) of the one part, and [*tenant*] of &c. (hereinafter called tenant) of the other part.

(*s*) Since the 1st January, 1921, a binding agreement cannot be made for substituted compensation for improvements within Part III of the First Schedule to the Act (s. 4); therefore, in the event of a dispute between the parties, it will rest with the arbitrator to determine the amounts according to his own view and the circumstances of the case. But there may be a valid agreement in respect of improvements within Part II of the First Schedule (s. 3 (2)) and of improvements within the Third Schedule of the Act (s. 49 (6)) and if "fair and reasonable," the compensation so agreed will be substituted for compensation under the Act. See Lely and Aggs' Agricultural Holdings, 5th Edn., p. 50.

(*a*) Stamp. *Ad valorem* on the rent.

WITNESSETH as follows :—

1. The landlord agrees to let, and the tenant agrees to take ALL THAT farm and lands called the —— Farm, comprising the several closes and pieces of arable, meadow, and pasture land specified in the schedule hereto situate at &c. and now in the occupation of the tenant, TOGETHER with all easements and appurtenances thereto belonging, but EXCEPTING all royalties, mines, minerals, quarries, and casual profits, with full right to use, open, excavate, and carry away the produce thereof, and except the rights of sporting and hunting over the said land, and except all timber and timber-like trees, and the right of felling and hewing the same, and of faggoting and carrying away the limbs, tops, and branches [*or* the shrouds] (*b*) thereof, and except all woods, underwoods, and plantations, and all plants, saplings, shrubs, and ornamental bushes, and except the right of taking, at any time or times, so much of the said lands as the said landlord, may require for forming woods or plantations [or planting young timber, plants, and saplings, or for any purpose mentioned in s. 27 of the Agricultural Holdings Act, 1923], he doing no unnecessary damage and making good any damage occasioned thereby and making a proportionate abatement of the rent and a reasonable allowance in respect of any irreparable damages occasioned thereby, such abatement and allowance to be ascertained by valuation as hereinafter mentioned, in case of disagreement respecting the same, TO HOLD the said premises unto the tenant for the term of one year commencing on the —— day of —— next, and so on, from year to year, until determined as hereinafter mentioned AT the yearly rent of £——, payable quarterly on the usual quarter days, [the first payment to be made on the —— day of —— next], AND ALSO the following additional contingent rents, namely the rent of [£20] for every acre of the meadow or pasture lands which the said tenant shall break up and convert into tillage, and so on in proportion for any greater or less quantity than an acre, and the further rent of [ten] shillings for every acre of the lands in grass, or under grass seeds, except the down-lands, on which rushes, docks, briars and thistles growing thereon are not kept by the said tenant properly mown, cut down, or destroyed on or before the first day of [August] in every year, such contingent rents to commence and be paid on such of the said quarterly days of payment as shall happen next after they shall respectively become due, and thenceforth continue payable, during the tenancy, along with, and collateral to, the said yearly rent, and to be recoverable in the same manner in all respects as such yearly rent.

2. The tenant hereby agrees with the landlord as follows :—

(*a*) During the tenancy to pay the said rents, and all rates, taxes, and assessments whatsoever payable in respect of the said farm, except land-tax and landlord's property-tax.

(*b*) To keep the internal parts of the said farmhouse and all cottages and buildings thereto belonging, in good tenantable repair, in all things, so far as respects the glass and lead of the windows,

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(*b*) This word, as here applied, means the top part of a tree, including the small branches, and, therefore, covering the last two words.

papering, graining, painting, and whitewashing, damage by fire, storm, tempest, tumult, dry-rot, and unavoidable accidents excepted, and to keep all the fences (*c*), wooden bridges, hatches, gates, posts, bars, stiles, rails, roads, and ways of and belonging to the said farm, in good repair and condition, on being allowed by the landlord, when requested, sufficient rough timber and other materials [including iron, stone, slate, tiles, lime, and sand] for such parts thereof as have been usually repaired therewith, and to leave the same in such repair and condition at the end of the tenancy, [the same being put in such repair by the landlord before the liability of the tenant shall commence].

(*c*) To carry, gratis, all necessary materials for such repairs and improvements, if any, on or to the said premises, except in cases of damage occasioned by such casualties as aforesaid, such materials being provided by the landlord within [ten] miles of the said farmhouse.

(*d*) At all times to find sufficient thatch for thatching so much of the said buildings as shall have been usually thatched therewith.

(*e*) To cut and plash the hedges [and hedge-rows] on the said lands in a husbandlike manner and at seasonable times, and preserve the same from damage by cattle or sheep and to properly scour the ditches, drains, and watercourses, and repair the banks belonging thereto.

(*f*) Not without the permission of the said landlord, or his steward or agent, after notice to quit has been given or received, to sow any hemp or flax, or suffer any turnips, rape, or cole to ripen so as to cast their seed on the said lands, or take a second white straw crop off the land on which such a crop has been grown in the preceding year.

(*g*) Not to sell or remove, or wittingly permit to be sold or removed from off the said land after such notice aforesaid any hay, reed, straw, or the produce of any crop of turnips [swedes, mangold] or vetches grown thereon during the last year of the tenancy unless it shall be shown by the tenant that the sum at which such produce was sold has been expended in artificial manures, cake, or other feeding stuffs of like value and has been used, supplied, or consumed on the said lands.

(*h*) That all the hay, straw, turnips, roots, vetches, and all other green crops before excepted, save reed and straw used for thatching and supplied to the said landlord, shall be consumed and the manure arising therefrom used and applied on and for the purposes of the said farm.

(*i*) That all such of the last mentioned manure as shall at the end of the tenancy be found on the said farm, shall be taken and considered as belonging thereto, and shall be left on the farm for the use of the said landlord, or his next tenant, but the

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(*c*) As to damage caused by animals straying on highway from unfenced land see *Hall* v. *Wightman*, [1926] N. Ir. 92 C. A. (Ir).

tenant shall have a right to use therefrom a sufficient quantity to properly manure any portion, not exceeding —— acres, of the said lands, on which he may grow a crop of roots, in course for the incoming tenant's wheat crops.

(*j*) That the whole of the said land shall be cultivated and managed in a husbandlike manner, either on a four-course or five-course system, at the option of the tenant, but in all cases in such a manner as to keep the said land in good heart and condition during the whole of the tenancy, and so as not to injure or deteriorate the holding.

3. The landlord hereby agrees with the tenant as follows :—

(*a*) That he will keep all the external parts of the said farmhouse and all the cottages and buildings thereto belonging in substantial repair during the tenancy, and allow sufficient rough timber [iron, stone, slate, lime] and [other] materials, [except nails,] for the repairs and works to be done by the tenant, within [ten] miles of the said farmhouse, as aforesaid.

(*b*) That the tenant on paying the said rents and observing the stipulations herein contained may peaceably and quietly hold and enjoy the said premises during the continuance of this agreement without lawful interruption by the landlord or any person rightfully claiming under or in trust for him.

4. The tenant, after having given or received notice to quit the said farm, shall be allowed to keep a fair quantity of sheep on the lands coming in course for wheat, but shall not, at any time, improperly tread the meadow or pasture land with cattle, sheep or swine, and shall allow the said landlord or his succeeding tenant, gratis, a sufficient quantity of straw for thatching the hay and corn ricks in the year next after the expiration of the tenancy, provided there shall be sufficient beyond the tenant's own requirements.

5. Either party may determine the tenancy hereby created at the end of the second or any subsequent year on giving to the other of them twelve calendar months' written notice for that purpose.

6. The tenant shall, on the [6th] day of [January], preceding the end of the tenancy, yield up to the landlord, or his next tenant, not less than one-eighth part of the arable lands then in wheat, or other stubbles or fallowed and coming in course to be sown with turnips (as the case may be), on being paid for such (if any) as shall have been fallowed together with stabling for —— horses, and —— cottages for the use of his labourers to be employed on the said farm and shall also leave sufficient wheat straw for littering the said horses, and one-half of the chaff arising from the last year's crop for the use of the same, and shall, at that time, sell to the landlord, or his incoming tenant, a proper and sufficient quantity of good hay and straw for the use of the said horses, provided he shall have so much thereof to dispose of, such hay or straw to be valued with reference to the same being consumed on the said farm.

7. The tenant shall allow the landlord, or his next tenant, to enter upon part of the arable lands for the purpose of sowing clover, or other

grass seeds, for the spring crops, which the tenant shall harrow or roll in gratis, and the tenant shall not allow cattle or sheep to feed thereon, after such crops shall have been sown.

8. On the [13th] day of [May] next preceding the end of the tenancy the tenant will permit the landlord, or his incoming tenant, to enter upon other parts of the said lands and carry out the dung and lay the same in mixens on some convenient part thereof, and on the [6th] day of [July] preceding the end of the tenancy, will permit the landlord, or his incoming tenant, to rafter or plough so much of the said lands as shall be in one or two years' clover lay and in course for wheat, which lands shall be of an average quality as compared with the whole of the arable lands, and not less in quantity than one-half of the area to be given upf or wheat, the tenant having a right to crop half the arable lands, in course for wheat, with rape or turnips, to be fed off on such lands which shall be given up as the fields become cleared. None shall be held later than the [23rd] day of [November] next after the end of the tenancy and for the crops so grown and fed, the tenant shall be paid half-tillages, according to the custom of the district. On or before the [15th] day of [July] preceding the end of the tenancy the tenant shall give up to the landlord, or his incoming tenant, the possession of the lands in course for turnips, making, with the part cleared on the [6th] day of [January], not less than one-fifth part of the whole of the lands to be given up to the landlord, or his incoming tenant, as each field shall have been fed off with sheep, and cleared of the green crops, sown by the tenant, which he shall have a right to do.

10. On the [11th] day of [October] following the tenant will surrender and yield up the whole of the remainder of the said arable lands and sell to the landlord, or his next tenant, at a price to be agreed or to be determined by valuers appointed as hereinafter mentioned, all the hay on the said farm at a consuming price and all the sainfoin roots which may be on the said lands not exceeding three years' growth, for which the tenant shall also be paid.

11. The tenant shall quit and yield up the meadow and pasture [and down] lands, [the rights of feeding in —— Moors,] and the remainder of the said farm on the said [11th] day of [October] next, except the farmhouse and garden, cart-shed, hack-stable, all the barns and yards, stabling for —— cart-horses, and —— labourers' cottages and gardens thereto all of which excepted parts he shall have a right to hold over until the [1st] day of [June] next after the end of the tenancy.

12. If, and whenever, any rent shall be in arrear for [21] days whether legally demanded or not or if and whenever the tenant shall be adjudicated bankrupt or compound with his creditors or commit a breach of the stipulations herein contained the landlord may re-enter upon the said farm or any part thereof in the name of the whole and determine the tenancy hereby created.

13. The valuations hereinbefore mentioned shall be settled by two valuers appointed by the landlord and the tenant respectively, and all matters, if any, in dispute, from time to time, between the parties hereto

shall be referred to a single arbitrator pursuant to the Agricultural Holdings Act, 1923.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of lands.*]

[*Signatures of both parties.*]

136.

AGREEMENT for Tenancy of a Market Garden (*d*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 135, p. 237, *supra*].

WITNESSETH as follows :—

1. The landlord agrees to let and the tenant agrees to take for the purpose of being used and treated as a market garden (*e*) ALL THOSE closes of [arable] land specified in the schedule hereto, situate in the parish of —— in the county of ——, TOGETHER with the dwelling-house, vineries, greenhouses, hothouses, pits, frames, forcing sheds and other buildings or structures thereon, which said hereditaments are more particularly delineated on the plan hereto annexed and thereon coloured blue, FOR the term of one year from the —— day of —— and so on from year to year until determined as hereinafter mentioned AT the yearly rent of £—— payable by equal half-yearly instalments on the —— day of —— and the —— day of —— in each year.

2. The tenant hereby agrees with the landlord as follows :—

(*a*) [*For payment of rent, rates, and taxes, as in Form* 135, *clause* 2(*a*), p. 238, *supra*.]

(*b*) To keep in tenantable repair and condition the dwelling-house and all buildings, structures, fixtures, gates, walls, fences, and hedges for the time being on the premises and all drains, ditches, and water-courses belonging thereto properly cleansed and scoured.

(*c*) To paint or tar regularly such parts of the wood and ironwork of the premises as have usually been painted or tarred and keep all glass in the windows, roofs, frames and elsewhere properly secured with lead putty or other cement.

(*d*) Stamp. *Ad valorem* on the rent.

(*e*) In the case of a tenancy of a holding commencing after the 1st of January, 1896, the tenant is not entitled to claim compensation for improvements within the Third Schedule of the Agricultural Holdings Act 1923, unless it is expressly agreed that the holding shall be let or treated as a market garden (s. 48 (1)), or unless a direction is obtained from the agricultural committee of the area where the land is situate that s. 48 shall apply thereto (*ibid.* s. 49). As to the meaning of "treated" see *re Masters and Duveen*, [1923] 2 K. B. 729, and as to what is a market garden within the meaning of the Act, see *Lowther* v. *Clifford*, [1927] 1 K. B. 130, C. A.

(*d*) To cultivate manure and manage the said land according to the most approved methods of gardening in the locality and keep the same free from weeds and unimpoverished.

(*e*) To preserve, prune and manage all vines, fruit trees, fruit bushes and other plants and roots permanently set out on the land and not cut down or remove any of such trees, bushes, plants or roots except such as shall have died, decayed, or become unfruitful, and from time to time replace such as have died, decayed or become unfruitful with others of equivalent quality and kind.

(*f*) To treat and use the premises as a market garden only and not do or permit therein anything whatsoever which may cause nuisance or annoyance to the landlord or neighbouring occupiers.

(*g*) [*Not to assign or sublet, as in Form* 133, *clause* 29, p. 222, *supra.*]

(*h*) [*To allow landlord to inspect, as in Form* 134, *clause* 6(*g*), p. 227, *supra.*]

(*i*) Upon determination of the tenancy to yield up the premises and all additions thereto [except fixtures and buildings lawfully removable by the tenant (*f*)] in such tenantable repair and condition as the same ought to be in having regard to the stipulations hereinbefore contained.

3. The landlord hereby agrees with the tenant that, &c. [*as in Form* 135, *clause* 3(*b*), p. 240, *supra*].

4. [*Power of re-entry, as in Form* 135, *clause* 12, p. 241, *supra.*]

5. All compensation allowances, valuations, claims for dilapidations and damages to which either party may be entitled under this agreement or otherwise in respect of the tenancy hereby created (*g*) shall be referred to two valuers in the usual manner and all questions and differences, if any, arising between the parties hereto shall be settled by arbitration pursuant to the Agricultural Holdings Act, 1923.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of lands.*]

[*Signatures of both parties.*]

137.

AGREEMENT for Lease of Land and Glebe (*h*).

THIS AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. (hereinafter called the landlord) of the one part and [*lessee*] &c. of (hereinafter called the tenant) of the other part.

(*f*) See Agricultural Holdings Act, 1923, s. 22.

(*g*) "Fair and reasonable" compensation may be substituted by agreement for that given under the Act (Agricultural Holdings Act, 1923, s. 49 (6)).

(*h*) Stamp. *Ad valorem* on the rent.

WHEREBY IT IS AGREED as follows :—

1. The landlord will grant to the tenant, and the tenant will accept a lease of ALL THOSE the several closes of land and hereditaments comprised in the First Schedule hereunder written and containing, according to the schedule to the tithe commutation award for the said parish, the several quantities, more or less, mentioned in the said First Schedule, with the appurtenances, and now in the occupation of the tenant situate at —— [and also the exclusive right to all game and wild-fowl thereon, and the fish in the streams, [ponds,] and waters on, or running over the same] AND ALSO all those the glebe (*i*) lands comprised in the Second Schedule hereunder written, and belonging to the rectory of the said parish of ——, with the dwelling-house, offices, barn, stable, out-buildings, yard, orchard and garden thereto belonging, also situate, &c., and now in the occupation of the said [*tenant*] except all royalties— mines and casual profits, TO HOLD the same for the term of —— years (determinable, nevertheless, as hereinafter mentioned) commencing from the —— day of ——, at the yearly rent of £——, payable quarterly, AND ALSO the several contingent rents, following :—[*Add particulars of the contingent rents as in Form* 134, *clause* 3 (*b*), *et seq.*, p. 225, *supra*].

2. The said lease shall contain the following covenants on the part of the tenant, namely :—

(i) To pay the said yearly rents in manner aforesaid and all rates, taxes, and outgoings, and perform all parochial offices in respect of the said premises.

(ii) To pay all such (if any) of the said contingent rents as shall become payable as aforesaid.

(iii) At his own cost, during the said tenancy to keep the [interior of the] farmhouse and buildings in good tenantable repair, reasonable wear and tear excepted, and peaceably to leave the same in such repair and condition at the termination of the tenancy.

(iv) Not to underlet any part of the farmhouse or premises, [except to labourers thereon and weekly lodgers (*k*)].

(v) At all reasonable times to permit the said landlord or his surveyor or agents to inspect the said premises, and with reasonable despatch to do all such repairs as he or they shall require consistently with the clauses herein contained.

(vi) To crop, cultivate, and manage all the lands in a good and husband-like manner, and with a view to the improvement thereof, and, in all respects, according to the most improved system

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(*i*) As to leases of glebe land and the requisite consents thereto, see Ecclesiastical Leases Acts, 1842, 1861 and 1862 (5 & 6 Vict. c. 27, 24 & 25 Vict. c. 105 ; 25 & 26 Vict. c. 52) ; *Jenkins* v. *Green* (1859) 28 Beav. 87 ; *Green* v. *Jenkins* (1860), 1 De G. F. & J. 454, C. A., and Halsbury's Laws of England, title " Ecclesiastical Law," vol. 11, pp. 761 *et seq.* For a form of lease under the Ecclesiastical Leasing Acts, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 3, p. 483.

(*k*) Sometimes tenants have opportunities for letting a part of their houses to respectable persons at particular seasons, or on special occasions. This exception therefore is both reasonable and proper.

of agriculture in the district [or according to the custom of the country (*l*)].

3. The said lease shall contain all such other covenants, stipulations, conditions, exceptions, reservations, clauses, and agreements as are usually inserted in leases relating to farms or lands of the same, or like nature, in the said county of —— and in particular

(i) A proviso enabling either of the said parties to determine the said tenancy at the end of the first —— years thereof, on giving to, or leaving at the usual place of abode of the other of them not less than twelve calendar months' previous notice, in writing, for that purpose (*m*).

(ii) Covenants on the part of the landlord to allow rough timber, [bricks, tiles, lime,] and materials [except nails] for the tenant's repairs and for peaceable enjoyment of the said premises by the tenant during the said term, determinable as aforesaid.

(iii) A provision that all questions and disputes between the parties shall be referred to arbitration pursuant to the Agricultural Holdings Act, 1923.

4. Until the execution of the said lease, the landlord shall have the same powers of distress for the recovery of the rent, if in arrear, as if such lease had been actually executed.

5. [*Clause as to costs of the lease and agreement as in Form* 134, *clause* 15, p. 236, *supra.*]

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of land not part of the glebe.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of glebe land.*]

[*Signatures of both parties.*]

138.

AGREEMENT for Letting Sporting Rights (*n*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*landlord*] of &c. of the one part and [*tenant*] of &c. of the other part.

(*l*) This clause leaves the questions of cultivation and management to the decision of practical valuers. See the Agricultural Holdings Act, 1923, s. 30, as to the tenant's right of freedom of cropping.

(*m*) If the consents required by the Ecclesiastical Leases Acts have been obtained, the tenancy of the glebe will bind the landlord's successor; and even if created without such consents, it will not *ipso facto* determine by the death or cesser of the estate of the landlord, if the subject-matter falls within the Landlord and Tenant Act, 1851, (14 & 15 Vict. c. 25), s. 1, or the Agricultural Holdings Act, 1923, s. 24.

(*n*) Stamp. *Ad valorem* on the rent. The demise of a right of sporting, as an incorporeal hereditament, requires a deed, unless it passes as appurtenant to the

WHEREBY IT IS AGREED as follows :—

1. The said [*landlord*] will let to the said [*tenant*], who will take and rent ALL THAT the exclusive right, and liberty with members of his family, friends, servants and others of hunting, coursing, shooting, sporting, killing and taking game, wildfowl and other birds, and (subject to the rights of any occupier of the lands) ground game (*o*) in, over, and upon the lands within the manor of ——, in the county of —— [*Or*,—in, over, and upon the estate called or known by the name of The —— Estate] [*or* farms, lands and coppices known by the name of "——" and "——" farm] [*or*, coppices, and other woods, plantations, breaks, and hedgerows *as the case may be*], more particularly described in the schedule hereunder written, and containing —— acres or thereabouts [*If any exception, add*—except that portion thereof called "——," now let to ——] [*If there be a right of fishing also, add*—And also the exclusive right of angling, fishing, and taking and killing fish [with nets] in the river, streams, and rivulets running over [and ponds on] the said manor [*or*, estate—*or*, farm—*or*, lands] at proper seasons, in a sportsmanlike manner, and with due reserve for stock, wilfully killing no pike or jack of less weight than —— ounces nor any other fish, except for bait, of less weight than —— ounces, in as full and beneficial a manner, in all respects, as the said [*landlord*] could exercise and enjoy the same if this agreement had not been made. [*If there be any exceptions, as of the ground game, add*—subject, nevertheless, to the rights of the tenants of the said lands, at all seasonable times, in the daytime, by themselves and others, duly authorized by them in writing, to course, kill, and carry away the hares [and rabbits] found on the arable and pasture lands in their respective occupations only] [*or* except, nevertheless, and always reserved to the said [*landlord*], the right of fox-hunting by himself and all others, with his permission or consent, at all times, during the said term, within, upon, and over the said manor and premises [*or* farms and lands]]. AND ALSO all that game-keeper's cottage situate at —— TO HOLD all the said premises unto the said [*tenant*] for one year from the 2nd day of February, 19—, and so on from year to year until determined by either party, by six calendar months' notice in writing delivered to the other party and expiring on the 2nd of February in any year of the tenancy at the rent hereinafter mentioned.

2. The said [*landlord*] will, at the request and expense of the said [*tenant*] depute or appoint such [proper] person being a servant of the

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land demised (*Skull* v. *Glenister* (1864), 16 C. B. (N.S.), 81), though a reservation of game may be by parol on a parol demise (*Jones* v. *Williams* (1877), 46 L. J. M. C. 270). And as by Scotch law an instrument under seal is not necessary for the conveyance of a sporting right, the stipulations of an unsealed lease made between Englishmen in England of sporting rights over land in Scotland may be enforced in an English court (*Adams* v. *Clutterbuck* (1883), 10 Q. B. D. 403).

(*o*) Under the Ground Game Act, 1880 (43 & 44 Vict. c. 47), s. 1, every occupier of land has the right to kill and take hares and rabbits concurrently with any other person who is entitled to kill and take the ground game on the same land. By s. 3, every agreement purporting to divest the occupier of his right is void. See *Morgan* v. *Jackson* (1895), 1 Q. B. 885; *Anderson* v. *Vicary*, [1900] 2 Q. B. 287; *Stanton* v. *Brown*, [1900] 1 Q. B. 671; and *Sherrard* v. *Gascoigne*, [1900] 2 Q. B. 279.

said [*tenant*] (*p*) as he shall nominate [*or* being his own servant] as gamekeeper of or for the said manor.

3. The said [*landlord*] will at all times during the tenancy keep all the hedges and fences round the coppices, woods, and plantations now fenced in good repair, so as to prevent sheep or cattle from straying or trespassing therein.

4. The said [*landlord*], and the tenants of the lands within the said manor, will when and as often as the same shall be required of him or them in writing, under the hand of the said [*tenant*], or his agent, give due notice to, and [at the expense of the said [*tenant*]], prosecute persons found poaching or trespassing thereon (*q*) for the purpose of taking or destroying game, or the eggs or nests thereof and will allow his and their names to be used, when necessary, in every such prosecution or proceeding.

5. The said [*tenant*]—

(*a*) Will pay to the said [*landlord*] a yearly rent of £—— by equal half-yearly payments on the 2nd of February and the 2nd of August in each year, the first such payment to be made on the 2nd of February next, and the last payment to be made in advance [three] calendar months before the expiration of the tenancy.

(*b*) Will pay all rates and taxes except landlord's property tax.

(*c*) Will not assign or sublet the said sporting rights without the said [*landlord's*] consent in writing first obtained.

(*d*) Will keep the said gamekeeper's cottage in good and tenantable repair.

(*e*) Will not keep or allow an unusual quantity of hares or rabbits to subsist within the said manor, but will destroy or cause them to be destroyed, from time to time, so that as little damage as possible may be done to the crops, young wood, and shrubs, in the coppices, plantations, hedgerows, and other places on the said or the adjoining lands (*r*).

(*f*) Will not turn out more than —— pheasants in any year of the tenancy.

(*g*) Will destroy all birds, reptiles, and vermin (not including foxes or rabbits) destructive of game, or the eggs thereof, found on the said manor [*or* farms and lands].

(*h*) Will exercise and take care that his friends and others acting with his consent or under his authority shall exercise the said sporting rights in a sportsmanlike and proper manner, and do as little damage as possible to the woods, fences, crops and other

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(*p*) This is often more desirable, as this person is more likely to see the rights are properly exercised than strangers who have no interest in doing so. For Forms of Appointment, see Encyclopaedia of Forms, 2nd Edn., vol. 1, p. 195.

(*q*) As to trespassing dogs, see *Barnard* v. *Evans*, [1925] 2 K. B. 794, and as to the liability of the owner of a cat for killing pigeons see *Buckle* v. *Holmes*, [1926] 2 K. B. 125.

(*r*) The tenants, having the right to kill the hares and rabbits, ought, of course, to bear the damage occasioned by them.

property of the said [*landlord*] and of his tenants of the [said] lands [within the said manor] and of the tenants of the lands adjoining thereto.

(*i*) Will by the best means, and to the utmost of his power, preserve all foxes and cubs which, from time to time, may be found on the said lands and will not, in any manner, injure, molest, or drive them off the said lands, or cause or permit any of his gamekeepers, servants, or others so to do.

(*j*) Will find and provide at his own expense, sufficient corn and food in the coppices and woods for feeding the game therein, so that as little damage as possible may be done to the corn crops and will leave, without compensation, a proper amount or stock of game on the said [manor and] premises [*or* the same amount or stock of game on the said premises as there shall be thereon on the —— day of —— next as nearly as may be] for the use of the said [*landlord*], or his succeeding tenant (*s*).

(*k*) Will employ —— and —— as two of his gamekeepers, now being servants of the said [*landlord*], so long as they shall conduct themselves properly, and shall discharge their respective duties faithfully and to the satisfaction of the said [*tenant*] (*t*).

6. If the said [*tenant*] [or the tenants of the said lands,] shall not, from time to time, after —— days' notice, keep down the stock of hares and rabbits on the said lands, so as to prevent their doing what the said [*landlord*], or his agent, shall consider excessive damage to the crops on the said lands [within the said manor] or to the young wood in the coverts, woods, plantations, or hedgerows thereon, the said [*landlord*], of his own free will and pleasure, either with or without members of his family, friends, servants, and others, shall be at full liberty to enter, from time to time, into and upon the coppices, woods, plantations and lands [within the said manor], after giving to the said [*tenant*] one week's notice in writing and to shoot, and, by other means, destroy, take, and carry away such number of the hares and rabbits then being thereon as he, or his agent, shall deem necessary or proper for preventing such damage.

7. The said [*tenant*] shall keep the said [*landlord*] effectually indemnified against all claims or demands for or in respect of any damage done to, or sustained by, any of the tenants of the lands [within the said manor], either to their persons, crops (*a*), or property, the amount of such damage, in case of disagreement, to be ascertained by arbitration as hereinafter mentioned.

8. On breach of any agreement hereinbefore contained on the part of the said [*tenant*] the tenancy hereby created shall cease, but the rent for the current year shall nevertheless be payable.

(*s*) As to the rights of the assignee of the reversion under this clause, see *Hooper* v. *Clark* (1867), L. R. 2 Q. B. 200.

(*t*) If the clause for appointing the tenant's gamekeepers be inserted, this must be omitted.

(*a*) The sporting tenant is bound to indemnify the landlord against claims for damage to crops by game within the Agricultural Holdings Act, 1923, s. 11 (1) (4) (5).

9. [*Arbitration clause as in Form* 29, *p.* 47, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

139.

AGREEMENT for Grant of Building Leases (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*owner*] of &c. (hereinafter called the lessor) of the one part and [*builder*] of &c. (hereinafter called the lessee) of the other part.

WHEREBY IT IS AGREED as follows:

1. The lessor will let and the lessee will take ALL THAT piece or parcel of ground situate on the [south] side of —— road —— in the county of —— which said piece or parcel of land is delineated on the plan hereto annexed, and thereon coloured [pink]. TO HOLD the same unto the lessee, for the term of —— years from the —— day of —— last at the yearly rent of a peppercorn for the first two years of the said term and thenceforth at the yearly rent of £ —— such last-mentioned rent to be payable quarterly free of deductions except for land tax and landlord's property tax on the usual quarter days the first such payment to be made on the —— day of —— whether any lease shall have been executed or not.

2. The lessee shall on or before the —— day of —— unless prevented by weather or other inevitable accident or by any strike or lock-out erect and complete fit for habitation with proper materials of all sorts upon the said ground at an expenditure of not less than £—— [5] good and substantial dwelling-houses under the direction and to the satisfaction of the surveyor for the time being of the lessor and in accordance with the plans, elevations and specification to be signed by the lessor and the lessee before building operations are commenced and in compliance with the building and other regulations of the [London] County Council.

3. No noisy, noisome, or offensive trade or business shall be carried on upon any part of the premises hereby agreed to be demised and no wine, beer, or spirituous liquors shall be sold at any time during the said term in or upon any part of the said premises.

4. Upon the surveyor of the lessor certifying that the said houses are erected and roofed in and the fence walls of the gardens thereto completed and the drains of the said houses connected with the main sewer to his satisfaction and if payment shall have been punctually made of all sums due to the lessor for ground rent or otherwise the lessor will demise or cause to be demised to the lessee or his nominee or nominees by [five] separate leases the said ground and messuages for the term and at the money rent reserved as aforesaid such rent being equally apportioned between the said houses, but no lease shall be granted pursuant to this

(*b*) Stamp. *Ad valorem* on the rent reserved. The lease will in such case bear a 10*s.* stamp. For the leasing powers of a tenant for life see the Settled Land Act, 1925 (15 Geo. 5, c. 18), ss. 41–48.

agreement unless there shall be upon the undemised ground at the time of granting such lease completed or uncompleted buildings of the value of £—— at the least.

5. Every lease to be granted pursuant to this agreement shall with the counterpart thereof be prepared by the lessor's solicitor and the lessee shall whenever required accept such lease and execute the counterpart thereof and every lease and the counterpart thereof shall have a plan attached thereto. No lease to be granted pursuant to these presents shall comprise more than one house.

6. The lessee shall pay to the solicitor of the lessor for every such lease the sum of £—— and shall also pay the amount of the stamps to be affixed to such lease and counterpart (*c*). The lessee shall pay to the surveyor of the lessor for the plan to be attached to every such lease and counterpart and the certificate respecting the premises therein comprised the sum of £——.

7. In case of any breach or non-performance of this agreement by the lessee or if the said intended erections or buildings or any of them shall not be commenced within [3] calendar months from the date hereof or when commenced shall be left in an unfinished state or the work thereon shall not be regularly proceeded with to the satisfaction of the lessor or his surveyor after [one] calendar month's notice to continue the said work shall have been left at the last known place of abode of the lessee or on the said ground then and in every such case this agreement shall determine and it shall be lawful for the lessor or the person or persons for the time being entitled to the said ground and premises hereby agreed to be demised forthwith without any legal proceedings to re-enter upon the same and to hold the same as of his or their former estate as if this agreement had never been entered into but without prejudice to any remedy to which he or they may be entitled in respect of any breach of this agreement.

8. The lessee shall insure in the full value thereof the houses to be built pursuant to this agreement as soon as they are roofed in and shall produce to the lessor on demand the policies of insurance and the receipts for the payment of premiums payable thereunder and shall apply all moneys received under such policies in rebuilding the said houses or as the lessor shall direct.

9. The leases to be granted in pursuance of this agreement shall be in the form specified in the schedule hereto.

10. This agreement shall not operate as a demise of the said ground and premises or give the lessee any legal interest therein except as a tenant at will upon the terms aforesaid but the lessor shall have all such powers and remedies for recovery of the rents by distress or otherwise and for performance and observance of the terms of this agreement as if a lease or leases thereof had been actually granted.

AS WITNESS, &c.

(*c*) See p. 23€, note (*r*), *ante*.

THE SCHEDULE ABOVE REFERRED TO.

[*Form of lease* (*d*)].

[*Signatures of both parties.*]

140.

AGREEMENT for Lease of Land for Building (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. of the one part and [*lessee*] of &c. of the other part.

WITNESSETH as follows :—

1. The said [*lessor*] hereby agrees with the said [*lessee*] that he will permit him to enter upon that part of the piece or parcel of land situate at &c. coloured —— in the plan hereunder annexed for the sole purpose of executing the works and erecting the dwelling-houses and buildings hereon as hereinafter mentioned.

2. When and as soon as the said dwelling-houses and buildings shall have been completed as hereinafter mentioned the said [*lessor*] will as soon afterwards as conveniently can be, grant an effectual lease of the said land to the said [*lessee*] for a term of —— years, to be computed from the date hereof, at the yearly rent of £——, payable by equal quarterly payments namely, on the —— day of ——, the —— day of ——, the —— day of ——, and the —— day of ——, in every year, during the said term ; the first of such quarterly payments to be made on the —— day of —— 19— whether such lease shall have been actually granted or not. If the said [*lessee*] shall require separate leases of the several dwelling-houses and buildings the said rent shall be apportioned according to the quantity of the land comprised in each lease and not more than —— leases altogether shall be granted, nor shall the ground rent in respect of any house be less than £——.

3. The said [*lessee*] hereby agrees with the said [*lessor*] as follows :—

(*a*) That he will at his own expense on or before the —— day of —— next [if not prevented by weather or unavoidable events] erect with bricks [*or* stone] and cover with tiles [three] dwelling-houses on the site numbered ——, in the position designated in the said plan, together with the offices [adjoining] and other erections mentioned in the plans and specifications hereunto annexed.

(*b*) That he will completely finish the said dwelling-houses and buildings together with all the walls, fences, wells, sewers, drains cesspools, fittings and works mentioned in the said specifications, so that the same may be fit for habitation and use on or before the —— day of —— next and will expend in so doing not less than the sum of £——.

(*d*) For precedents of leases (which do not fall within the scope of this work) see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 8, pp. 283 *et seq.*

(*e*) Stamp, see note (*b*), p. 249, *ante*.

(*c*) That the whole of the said dwelling-houses, buildings, and works shall be executed in a substantial and workmanlike manner, with sound and proper materials, and in all respects according to the said plans and specifications and such sections, elevations, and particulars as shall from time to time be required, or approved by the architect for the time being appointed by the said [*lessor*].

4. Each of the leases and counterparts shall be prepared by the solicitor for the said [*lessor*] and approved by the solicitor for the said [*lessee*], and the said [*lessee*] shall, upon the execution thereof, pay the costs thereof, respectively and incident thereto; and the further sum of £—— to the architect for the time being of the said [*lessor*] for the working plans and specifications relating to each plot, which sum shall be considered as his full remuneration for surveying, drawing the said plans and specifications, and the setting out the respective sites, and superintending the erection and carrying out of the said buildings and works.

5. The said leases shall contain all such stipulations, conditions, exceptions, reservations, covenants, and agreements, as are contained in a printed draft thereof which for the purposes of identification has been signed by both parties, [*or* as are usually contained in leases of similar nature granted by the said [*lessor*] the terms and conditions of which are well known in the neighbourhood] and particularly a reservation of a free passage through the sewers and drains to be formed in and upon the said premises for the conveyance of water and soil through or under the said premises from any of the lands adjoining or in the neighbourhood thereof, belonging to the said [*lessor*] and likewise a reservation of all mines, minerals and casual profits in, under or arising from the said land, or any part or parts thereof, with full power to open, delve, excavate, work, and carry away the produce thereof, without the consent of the said [*lessee*], and without making him any compensation for the same, except for any actual surface damage.

6. The said [*lessee*] shall, at his own expense, as soon as the outer walls of the said dwelling-houses and outbuildings shall have been erected to a height of [15] feet above the ground level, insure and keep insured the buildings for the time being standing on the said ground with the —— Fire Insurance Company, or some other insurance office to be approved by the said [*lessor*], in their joint names to the full value thereof, such value to be decided by the said [*lessor's*] architect for the time being and shall, whenever requested, deliver to the said [*lessor*] every policy so effected and the receipts for the premiums annually payable in respect thereof and in default thereof, the said [*lessor*] shall be at full liberty to effect and continue the said insurance and the premiums paid thereon shall be recoverable from the said [*lessee*] on demand.

7. In case of any destruction or damage to the said dwelling-house or buildings or any part or parts thereof respectively, by fire, the moneys to be received by virtue of any such insurance shall be expended in rebuilding or restoring the same, and in case such moneys shall be insufficient for that purpose, the said [*lessee*] shall provide and pay such further sum as may be necessary for the completing the same.

8. If the yearly rent to become due before the said lease shall be granted as aforesaid, or any part thereof, shall be in arrear for —— days, whether legally demanded or not or if the said [*lessee*] shall neglect or be unable to complete the said buildings and work at the period and according to the stipulations hereinbefore referred to, or shall not duly perform this agreement then, and in any such case, the said [*lessor*] shall not be compellable to grant the said intended lease but it shall be lawful for the said [*lessor*] to re-enter on the whole of the said premises and remove therefrom as well the said [*lessee*] as also all other persons then being therein and thereon, and to repossess, hold, and enjoy the same, with the buildings, erections, plant and materials (all which plant and materials shall become the property of the said [*lessor*] on being brought upon the premises) (*f*), if any, then being thereon without being liable to make any compensation in respect thereof.

9. This agreement shall not operate as an actual or present demise or create any leasehold interest or tenancy of the premises or any part thereof, and shall confer on the said [*lessee*] only a right to enter upon the premises for the purpose of carrying out this agreement upon the terms herein contained, but any rents or yearly sums to be paid by the said [*lessee*] to the said [*lessor*] which shall be in arrear, shall be recoverable by the said [*lessor*] as rent in arrear and as if the said [*lessee*] were tenant of the premises.

10. If any question, controversy or dispute shall arise between the parties hereto respecting the rights, duties, or liabilities, of either of them in connection with the premises, or of these presents or the construction hereof or any clause, matter or thing herein, or in the said plans or specifications, contained, or anything to be done under or by virtue hereof or incident thereto, then, and in every such case, the same shall be referred to the architect for the time being of the said [*lessors*] whose decision shall be final (*g*).

IN WITNESS, &c. [*Signatures of both parties.*]

141.

AGREEMENT for Lease of Building Sites (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 140, p. 251, *supra*].

(*f*) This power of seizing materials, &c., does not render the agreement a bill of sale requiring registration (*Re Garrud, Ex parte Newitt* (1880), 16 Ch. D. 522; *Reeves* v. *Barlow* (1884), 12 Q. B. D. 436), but if there is power to sell the building materials independently of the power to enter upon and take possession of the premises, the deed will be void under s. 8 of the Bills of Sale Act (1878) Amendment Act, 1882, for want of registration in respect of the personal chattels comprised therein (*Climpson* v. *Coles* (1889), 23 Q. B. D. 465); and see Halsbury's Laws of England, title, "Bills of Sale," vol. 3, p. 12. See also *Re Keen and Keen*, [1902] 1 K. B. 555.

(*g*) This reference is frequently made to the lessor's architect or surveyor, and such selection is not invalid merely because he may have to decide questions involving his own skill and competence (*Eckersley* v. *Mersey Docks Board*, [1894] 2 Q. B. 667; but see *Bristol Corporation* v. *Aird & Co.*, [1913] A. C. 241, and *Hickman & Co.* v. *Roberts*, [1913] A. C. 229).

(*h*) Stamp. See p. 249, note (*b*), *ante*.

WHEREBY IT IS AGREED as follows :—

1. When and so soon as the said [*lessee*] shall have built and covered one of the pieces or plots of ground as hereinafter mentioned with houses and have also formed and finished the foot and carriage-ways and pavements, according to the stipulations hereinafter mentioned, and to the plans and specifications hereunto annexed, and signed by both the said parties, to the satisfaction of the surveyor for the said [*lessor*] the said [*lessor*] will demise unto the said [*lessee*], ALL THAT piece or parcel of land situate at, &c., and [now set or staked out in plots] and coloured [red], [blue] and [brown] on the said plan TO HOLD the same for the term of —— years, to be computed from the —— day of —— next AT the yearly ground-rents following, namely, for the plots coloured [red], and marked "A" on the said plan, the rent of a peppercorn, during the first —— years of the said term, and, during the residue thereof, the yearly rent of £—— and for the plot coloured [blue] and marked "B" on the said plan, the rent of £—— from the said —— day of —— [*continue in like manner in respect of the other plots*].

2. The said money rents, amounting in the aggregate to £—— shall be paid to the said [*lessor*] quarterly on the —— day of ——, the —— day of ——, the —— day of —— and the —— day of ——, in every year during which the same are payable, the first such payment to be made on the —— day of —— whether the said lease shall have been granted or not and shall be paid clear of all deductions whatsoever except land-tax and landlord's property tax, which are to be borne and allowed or paid by the said [*lessor*].

3. The said [*lessee*] will, at his own expense, in all things, and under the inspection and control of the surveyor, for the time being, of the said [*lessor*], erect on the piece or parcel of land so to be demised as aforesaid, in a substantial and workmanlike manner, —— dwelling-houses, with the necessary domestic offices and outbuildings for the same respectively, of the dimensions, elevations, and form, and on the site specified in, and conformably in all respects, to the said plans and specifications and to the satisfaction of the said surveyor and will form and properly make the carriage and footways in front of each of the said dwelling-houses —— feet wide, and the areas —— feet wide, and [cement, concrete, or] pave the same and the footways according to the said plan and specifications and will complete the whole of the said buildings and works, in manner aforesaid, and with proper fixtures and fastenings, fit and ready for occupation, on or before the —— day of —— next.

4. The said lease shall contain all such stipulations, covenants, conditions, exceptions, reservations, clauses and agreements as are usually inserted in leases of the same or similar nature and in particular the following covenants, on the part of the said [*lessee*], his executors, administrators, and assigns, namely :—

(*a*) To pay the said rent and all outgoings, whatsoever, except as aforesaid then due or payable, and thereafter during the said term, to become payable, for or in respect of the said plots of land, so to be demised as aforesaid or of the dwelling-houses and buildings so to be erected thereon respectively.

(*b*) To repair, and at all times during the said term maintain the said dwelling-houses, buildings, and premises respectively, in good and substantial repair and condition without notice from the said [*lessor*] who, in default thereof, shall be at liberty to do such repairs at the expense of the said [*lessee*], and require payment therefor by him.

(*c*) During the said term, including the last —— years thereof, to paint, paper, and whitewash all such of the rooms and passages in each of the said dwelling-houses so to be erected on the said premises as aforesaid, as shall have been previously painted, papered, or whitewashed, with three coats of good oil colours, [to be approved by the said [*lessor*], or his agent, or surveyor] every [seven] years, and such of the external wood and iron parts thereof respectively, as are usually painted, with two coats of good oil colours, [to be approved as aforesaid,] every [three] years during the said term, unless such woodwork thereon respectively shall have been grained or stained in which case the same shall be varnished with one coat of good and proper varnish every seven years, or oftener, if and when required, during the said term.

(*d*) To keep and leave the said premises respectively, together with all the fixtures and fittings, locks, and fastenings thereon and thereto in good and substantial repair and condition at the end or sooner termination of the said term.

(*e*) To insure and, during the said term, and the continuance of this agreement keep each of the dwelling-houses and buildings which may, at any time, during the said term be erected, or in course of erection, on the said premises respectively, insured in the names of [himself and] the said [*lessor*] his heirs or assigns in the —— Insurance Office in London, against loss or damage by fire to the full value of each dwelling-house or building for the time being standing on the said land, and from time to time, when thereunto required to deliver to him or them, the receipts for the premiums paid for such respective insurances, and in case any of the said dwelling-houses or buildings, or any part or parts thereof respectively, shall be destroyed or damaged by fire, storm, or tumult, forthwith to rebuild or restore the same to its original or an improved state and value.

(*f*) To bear and pay to the proper parties a fair and just proportion to be ascertained according to the respective rentals [*or* rateable values] of all the charges and expenses of and attending the renewing, repairing and cleansing the pavements, party and other walls (*i*), wells, pumps, pipes, drains, sewers, cesspools, and watercourses of and belonging to the said respective dwelling-houses and premises, and of such as shall be used in common

(*i*) As to party walls see the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 38, and Sch. I, Part (V).

with them or any or either of them, respectively, or with any other property adjoining or being near thereto.

(*g*) To permit the said [*lessor*], his heirs and assigns, and his and their surveyor, agents, workmen, and others with his and their authority, twice, or oftener if necessary, in every year during the said term to enter upon and inspect the state and condition of the said respective premises, or for any other reasonable purposes, and in case the same shall be found defective or in want of repair or cleansing, within —— calendar months next after receiving notice in writing from him or them and particulars thereof to duly repair and cleanse the same accordingly. In default thereof the said [*lessor*] shall be at liberty to do such repairs under the power for that purpose hereinbefore contained, and the said [*lessee*] shall pay all the expenses of, attending, and incident thereto, or the same shall be recoverable by action at law.

(*h*) During the last —— years of the said term, to permit the said [*lessor*] his heirs and assigns, and his and their surveyor or agent and others, to enter upon the said premises and take or compare an inventory of the fixtures and fittings then being therein respectively, and to show the premises to any person or persons desiring to become tenants or purchasers thereof respectively.

(*i*) Not to use or permit any building on the said premises, or any part thereof, to be used otherwise than as a private [or professional] residence; nor erect any building or other thing, or permit any tree or other obstacle to be erected or to grow thereon which may be or become, or be considered a nuisance or annoyance to the said [*lessor*] his heirs or assigns or the tenants or occupiers of any other dwelling-houses belonging to the said [*lessor*] his heirs or assigns (*k*).

5. The said rent to be reserved in and by the said respective leases as well as any future sub-divisions thereof, permitted by the said [*lessor*], his heirs or assigns, shall be apportioned by him or them, or his or their surveyor, in such manner, in all respects, as he or they shall consider just and proper, [*or* at the rate of —— per foot, according to the superficial area [*or*, frontage] of each plot,] and each apportioned part respectively shall be recoverable from the respective owner of each plot in all respects as if it were under a separate demise.

6. The said [*lessee*] will accept a lease and execute a counterpart thereof of the said piece of land upon the terms, stipulations and conditions hereinbefore expressed.

7. The said [*lessor*] shall on or before the —— day of —— furnish

(*k*) For a form, and the effect, of a restrictive covenant against carrying on certain specified trades, and concluding with the words: **nor do or wittingly or willingly cause or suffer to be done any act, matter, or thing in or upon or about the said premises, which shall or may be or grow to the annoyance, nuisance, grievance, or damage of the lessor, his heirs and assigns, or the inhabitants of the neighbouring or adjoining houses**, see *Tod-Heatley* v. *Benham* (1888), 40 Ch. D. 80; *Wauton* v. *Coppard*, [1899] 1 Ch. 92; *Frost* v. *King Edward VII Welsh National Association*, [1918] 2 Ch. 180.

the said [*lessee*] with an abstract of his title to the said land and at the expense of the said [*lessee*] verify the same Such abstract shall commence with a conveyance on sale dated the —— day of —— [*or as the case may be*] and [*add any special conditions required by the state of the title* (*l*)].

8. The costs and expenses of, attending, and incident to the preparation of the said intended lease and counterpart which shall be prepared [and perfected] by the solicitor for the said [*lessor*] as well as of these presents, shall be borne and paid by the said [*lessee*].

9. [*Power of re-entry as in Form* 140, *clause* 8, p. 253, *supra.*]

10. [*Clause restricting effect of the agreement as in Form* 140, *clause* 9, p. 253, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

142.

AGREEMENT for Lease of Brewery, Malthouse and Public-houses (*m*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 137, p. 243, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The landlord will grant to the tenant who will accept a lease of the several hereditaments hereinafter mentioned, namely—

FIRST, ALL the dwelling-house, with the malthouse, brewhouse, outbuildings and premises situate &c. and all those several closes of meadow land adjoining and belonging thereto, containing by estimation —— acres, or thereabouts, in the occupation of ——, with the cottages and all erections and buildings now standing thereon all which premises are delineated on the plan hereto annexed and thereon coloured [red]

SECONDLY, ALL THOSE the several inns or public-houses of the landlord with the hereditaments thereunto respectively belonging or connected therewith, distinguished by the several names or signs, situate in the several places, and occupied by the several persons hereinafter mentioned, namely, "The —— Inn," with the tap-room, yard, garden, bowling green, and paddock thereunto belonging, situate at —— aforesaid, and now in the occupation of ——, as yearly tenant at the annual rent of £—— "The —— Inn," with the yard, garden and appurtenances thereunto belonging, situate at ——, in the county of ——, and now in the occupation of ——, and held by him at the annual rent of £—— for the residue of a term of —— years, granted by a lease dated the —— day of —— and made between [*parties*].

(*l*) As this agreement contemplates a considerable outlay by the lessee, it would be well, for his protection, that this clause (overriding s. 44 (2) of the Law of Property Act, 1925 (15 Geo. V. c. 20)) should be inserted.

(*m*) Stamp. *Ad valorem* on the rent.

TO HOLD the same unto the tenant for the term of —— years from the —— day of —— next, but determinable as hereinafter mentioned AT the aggregate yearly rent of £—— clear of all deductions whatsoever, except land-tax and landlord's property-tax, such rent to be payable in equal quarterly portions on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— in every year during the said term, the first of such payments to be made on the —— day of —— next.

2. The landlord will sell to the tenant who agrees to purchase at a valuation to be made as hereinafter mentioned, ALL the beer (not exceeding —— barrels), ale, malt, hops, brewery-plant, machinery, live and dead stock, utensils and effects, comprised and specified in the schedule hereunder written and now used and employed by the landlord in or about the said trade or business of a brewer and maltster so carried on by him AND ALSO all the fixtures, fittings and articles in and about the said brewery, malthouse, dwelling-house, counting-house and offices and the several inns or public-houses, buildings and premises belonging to the landlord also specified in the schedule hereunder written.

3. The said lease shall contain covenants by the tenant as follows :—

(*a*) To pay the said yearly rent in manner aforesaid, and all the rates, taxes, and outgoings from time to time to become payable in respect of the said premises respectively, except as aforesaid, during the said term.

(*b*) During the said term, after the said premises shall have been put into repair by the landlord as hereinafter mentioned to keep [the internal parts of] the said premises in as good tenantable repair and sanitary condition in all respects as they are now in, damages by fire, tempest, tumult, dry-rot, [and the reasonable wear and tear thereof] excepted the present state of repair to be ascertained by a survey thereof, to be made and agreed upon by two impartial persons, as hereinafter mentioned, prior to the execution of the said lease.

(*c*) To cultivate the said land in a proper and husbandlike manner, according to the custom of the country, and not plough or convert the same into arable or tillage (*n*).

(*d*) To keep and preserve the gates, hedges, ditches and fences thereof in proper order and condition and at the termination of the said term peaceably deliver up the whole of the said premises to the landlord or to such person or persons as he shall appoint in such good tenantable repair, order, and condition as hereinbefore mentioned, except as aforesaid [such state of repair to be ascertained as last hereinbefore mentioned.]

(*e*) At his own cost, immediately after the execution of the said lease, to insure in the joint names of himself and the landlord, all the said buildings from loss or damage by fire [and the licences granted in connection therewith against forfeiture or extinguish-

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(*n*) The subject of this letting is not a "holding" as defined by the Agricultural Holdings Act, 1923, s. 57 (1) (*re Lancaster and Macnamara*, [1918] 2 K. B. 472), but see s. 33 and *In re Russell and Harding's Arbitration* (1922), 128 L. T. 476.

ment] in some insurance office, to be approved by the latter, in the sum of £—— and keep the same so insured during the said term, and pay all premiums payable for that purpose and on request produce the receipts for the premiums paid to the landlord [who shall, from time to time, allow the same out of the next quarterly payment of the said yearly rent].

(*f*) In case the said buildings or any of them, or any part thereof respectively, shall be destroyed or injured by fire, to rebuild and repair the same, according to the plans and under the direction and superintendence, of the landlord or his surveyor out of the moneys to be received by virtue of such insurance, so far as the same will extend.

(*g*) Not, without the consent in writing of the landlord to carry on any other trade or business on the said premises, or convert the said buildings, or any of them, to any other purpose than that for which they are now respectively used and let or so far as he can prevent the same, permit or suffer any or either of the inns or public-houses hereinbefore mentioned to be altered or converted into private houses, or let the same to any person or persons likely to occasion or endanger the loss, endorsement or suspension of the licence or licences, or any certificate relating to any or either of them to be refused, or the custom of any of them respectively, or of the said brewery, to be lessened or prejudiced.

(*h*) At all proper times to apply for and do all acts and things necessary or proper to procure the regular renewal of all licences belonging to the demised premises or any part thereof and at the termination of the tenancy to assign or transfer all licences then held in respect of the premises to the landlord or as he shall direct upon being paid a proper proportion of the cost of such licences.

(*i*) To make no claim for the value of any goodwill acquired by the tenant in respect of the said premises or any part thereof.

4. The said intended lease shall also contain a special stipulation and provision that in the event of any of the inns or public-houses hereinafter mentioned, namely "The —— " at ——, "The —— " at —— &c. ceasing to belong to the landlord, his heirs or assigns, during the said term of —— years, by reason of termination of the term or terms by which the same are respectively held, and if the same lease or leases cannot be renewed by him or them, then, and in every such case the tenant shall immediately thereupon on request in writing, peaceably surrender to the landlord all his right and interest in and to, and the possession of such public-house or public-houses respectively the term or terms whereof shall have so terminated as aforesaid, and shall thenceforth be entitled to a proportionate abatement and reduction from the said yearly rent of £—— in respect of such part or parts of the said premises as shall be so delivered up as aforesaid, according to the annual rent thereof and also to a full and fair compensation for and on account of the loss which the tenant may thereby sustain from not serving such public house or public-houses with [wine, spirits, cordials,] beer, ale,

porter, malt, or hops the amount of such [proportionate] abatement and allowance to be ascertained by arbitration as hereinafter mentioned.

5. The said lease shall contain a reservation to the landlord of the right to enter upon the respective premises during the tenancy hereby created, for the purpose of inspecting and examining the state and condition thereof and a condition enabling the landlord, in case of non-payment of the said yearly rent of £—— or any quarterly payment thereof, for the space of —— days next after the same shall become due as aforesaid [and after demand, in writing, made thereof], no sufficient distress or distresses being found on the said premises to countervail the same or on breach by the tenant of any covenant to be contained in the said intended lease, and on his part to be observed and performed to enter upon the whole of the premises so to be demised as aforesaid, at the expiration of the said —— days or any time or times afterwards and to determine the said lease.

6. The intended lease shall contain covenants by the landlord as follows —

(*a*) At his own expense, on or before the —— day of —— next to put [all the external parts of] the said dwelling-house, brewery, malthouse, and also of the said several inns or public-houses and the outbuildings and erections thereto respectively belonging, in good and substantial repair, [and during the said term, to keep the same in like repair on having due notice, in writing from the tenant, from time to time, of any defects therein].

(*b*) Not at any time during the term so to be granted as aforesaid, to exercise or carry on, directly or indirectly, either alone or in conjunction or connection with any other person or persons whomsoever, either as principal or in the capacity of a partner, agent, assistant, servant, or otherwise, the trade or business of a common brewer, malster, [hop-merchant, or hop-vendor,] in the town of —— aforesaid, or at any place or places within —— miles thereof; and in case of any breach or infringement of this part of this agreement, immediately thereupon to pay to the tenant the sum of £—— as liquidated damages; without prejudice, however, in any respect, to any other rights which shall have then accrued to the tenant under or by virtue hereof, or of the said lease.

(*c*) On the termination of the said term of —— years, whether by effluxion of time or otherwise, at a like valuation to that hereinafter mentioned to purchase from the tenant the stock of beer not exceeding —— barrels, which shall then be held by him on the premises hereby agreed to be demised, and in good, sound, wholesome and saleable condition, together with the plant, fixtures, utensils, articles and effects specified in the schedule hereunder written, or so many and such parts of the same respectively as shall then be entire and subsisting, together with any other articles of the like nature, which shall from time to time have been substituted by the tenant in lieu of those by

clause 2 hereof contracted to be sold, or of such of them as shall have been worn out or become useless.

(*d*) In the event of any of the said buildings, or any part thereof respectively, being destroyed or damaged by fire, lightning, or tempest, so as to render the same uninhabitable or unfit for residence or for the purpose of carrying on the said trade or business to abate and allow to the tenant a just, due, and proportionate part of the said yearly rent in respect of the buildings so destroyed or damaged, until the same shall have been rebuilt or repaired, and shall be fit for habitation and for the purpose of carrying on the said trade or business. And in the case of any disagreement in respect of time or amount of such abatement and allowance, the same shall be determined by arbitration as hereinafter mentioned.

7. The said beer, plant, implements, utensils, fixtures, effects, and things shall in the cases of entering and leaving as aforesaid, be valued by two impartial persons in the trade or business of a brewer and malster, one to be chosen by each party, and if such valuers shall not agree, by an umpire, to be chosen by them before entering upon the valuation and the award of such referees or umpire in the matters of such valuation, which shall be made within —— days next after the first reference to them, or within such enlarged time or times as shall be endorsed by them thereon, not exceeding altogether —— days, shall be final and conclusive on both parties respectively and their respective representatives and the amount of the said valuation shall be paid by the several instalments, and in the manner, following, namely, [two] equal [fifth] parts thereof within one week after the date of such valuation and the remaining [three] equal [fifth] parts thereof within —— weeks of such date. In case either of the said parties shall refuse or neglect to nominate and choose a valuer, for the purposes and according to the stipulations aforesaid for the space of —— days next after request in writing, from the other of them, or in case the said valuers, or either of them, when chosen, shall for the space of —— days after request, in writing, refuse or neglect to choose an umpire, as aforesaid, or to proceed in the business of such valuation, then and in either such cases it shall be lawful for the party giving such notice to choose the second valuer (in addition to the one previously named by him), and both such valuers shall then proceed in the business of such valuation and reference as aforesaid, and their decision, or the decision of their umpire, shall, if made within the time aforesaid, be binding and conclusive on both the said parties and their representatives, to all intents and purposes whatsoever, in like manner as if they had been mutually chosen.

8. When and so often as any question, or controversy shall arise or happen between the said parties, at any time during or after the said term, relating to or concerning these presents, or the said intended lease or anything therein respectively contained or referred to, the same shall be submitted to arbitration in like manner to the valuation hereinbefore expressed and each of the said parties shall deliver to the other of them a statement in writing of all matters and things intended to be referred

by him to the said arbitrators, at least —— days before the day appointed for the first sitting on the said arbitration.

9. The said lease shall contain not only the clauses and agreements herein contained, but also all such other clauses, conditions and agreements as are consistent with these presents, and proper and usual to be inserted in leases of the like nature, and be executed by both parties on or before the —— day of —— next and shall be prepared by Mr. —— of &c. the solicitor for the landlord [and approved by the solicitor for the tenant and all the costs of or incidental to the preparing and perfecting the same and of a proper counterpart thereof and of these presents shall be borne and paid by the said parties hereto in equal shares [*or* by the tenant].

10. Provided always, and these presents are upon this express condition, that [if the concurrence of the mortgagees of the dwelling-house, malthouse, brewhouse, public-houses, land, hereditaments and premises, hereinbefore referred to, or any of them, cannot be obtained in the lease to be granted in pursuance of this agreement by the —— day of —— next or], in case a licence or licences to demise or let any or either of the said inns or public-houses, which may be of leasehold tenure, cannot be obtained from the superior landlord or landlords, then, and in either of such cases, the landlord shall be at full liberty to determine the present agreement, and neither of the parties shall be subject to any liability whatever to the other of them under or by virtue hereof.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of stock to be purchased.*]

[*Signatures of both parties.*]

143.

AGREEMENT for Lease of Hotel to be used as a Private Residence with Option of Purchase (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 137, p. 243, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The landlord will grant to the tenant on or before the —— day of —— next, a lease of ALL THAT hotel, with the coach-houses, stabling, outbuildings, yards and garden thereto belonging, situate at ——, and known as the —— Hotel, together with the appurtenances thereto belonging TO HOLD the same for the term of 21 years, from the date hereof, AT the yearly rent of £—— payable quarterly on the usual quarter days,

(*o*) Stamp. *Ad valorem* on the rent. The option of purchase does not involve payment of extra stamp duty (*Worthington* v. *Warrington* (1848), 5 C. B. 536), but see the Revenue Act, 1909 (9 Edw. 7, c. 43), s. 8, as to the stamp in respect of a covenant by way of further consideration. (Encyclopædia of Forms, 2nd Edn. vol. 19, p. 891.)

clear of all deductions whatsoever, except [land-tax and] landlord's property-tax, and upon the terms and conditions hereinafter mentioned. The first payment of rent shall be made on the —— day of —— next and shall be a proportionate part of rent calculated from the date hereof to the said —— day of ——.

2. The tenant will accept such lease, and execute a counterpart thereof accordingly.

3. The said lease shall contain covenants on the part of the tenant as follows :—

(*a*) To pay the said rent, and all rates, tenant's taxes, and assessments whatsoever, except as aforesaid, the same having been fully paid by the landlord up to the date hereof.

(*b*) To keep the said premises and all additions thereto and all boundary walls and fences, drains and pipes belonging thereto in good and tenantable repair and condition during the said term.

(*c*) To paint with two coats at least of good oil paint in a workmanlike manner in the year —— and thenceforward in every third year of the said term all outside wood, metal and cement work usually painted.

(*d*) To paint in like manner with two coats at least of good oil paint in the year —— and thenceforward in every seventh year of the said term all the inside wood and iron work usually painted and at the same time to varnish, distemper, stop, wash, whiten and colour and repaper all internal parts which have been previously so treated

(*e*) To insure and keep insured in the joint names of the landlord and the tenant the demised premises from loss or damage by fire in the sum of £—— at the least in some office approved by the landlord and pay all moneys necessary for keeping such assurance on foot and to produce to the landlord on demand all policies and receipts for premiums.

(*f*) To peaceably yield up possession of the said premises and all additions thereto in good and tenantable repair and condition at the determination of the said term.

(*g*) That the said hotel shall not be kept open as an hotel, or ale or victualling-house, but that the licences attached thereto, or held in respect thereof, shall either be transferred as the landlord shall direct, or be surrendered, or discontinued as he shall direct.

4. It shall be lawful for the said [*lessee*] to assign or underlet the said hotel, outbuildings and premises, or any part thereof, as a private residence, or for private (not public) purposes.

5. At his own cost at all times, when and as he shall think fit during the said term, the tenant shall be at liberty to make any alterations, additions to, or improvements in, the said hotel, outbuildings, and premises, or any of them, or any part thereof respectively, and take down and remove any of such outbuildings, and also, to sell and dispose of all or any of the fixtures or fittings now being in, or upon the said hotel, buildings

and premises, or any part thereof, and any bricks, tiles, timber, and other materials which may be taken down or removed in the course of such alterations as aforesaid, and to receive and retain the proceeds thereof for his own use and benefit [PROVIDED that such alterations, additions and removals shall be first approved by the landlord's surveyor, Mr. —— of &c.].

6. The said lease shall contain a power for re-entry for the landlord if any rent shall be in arrear for [21] days after the due date of payment or if the tenant shall be adjudicated bankrupt or commit any breach of any covenant herein or in the said lease contained and shall also contain the usual qualified covenant for quiet enjoyment.

7. The landlord hereby agrees that if the said tenant shall have at all times duly paid the said rent and observed the covenants on his part herein or in the said lease contained to sell to the tenant on his written request the fee-simple and inheritance in possession, free from all incumbrances whatsoever of and in the same hotel, hereditaments, fixtures and fittings, at the price of £—— such sum to be payable, and paid, at any time during the said term, but without interest in the meantime the aforesaid rent being intended and considered as or in the nature of an equivalent for the interest thereon until the time of payment (*p*).

8. The landlord will, on or before the —— day of —— next, make out and deliver to the tenant an abstract of the title to the said premises, and deduce a marketable title thereto and produce the title-deeds for examination therewith at his solicitor's offices at ——, and will, at any time during the said term, when thereunto required, and upon payment of the said sum of £——, and the rent or a proportionate part thereof down to the date of conveyance by effectual conveyance to be prepared by, and at the expense, in all things, of the tenant and to be executed by all necessary and proper parties, duly convey and assure the said premises, with the appurtenances, unto the tenant or as he shall direct. The said conveyance shall contain a covenant by the tenant framed so as to bind the premises into whosesoever hands the same shall come to use the premises as a private [or professional] residence only.

9. Upon payment of the said purchase money, the tenancy hereby created or the lease to be granted in pursuance hereof shall cease and determine.

IN WITNESS, &c.

[*Signatures of both parties.*]

144.

AGREEMENT for Letting an Hotel as a Tied House (*q*).

AN AGREEMENT made the —— day of ——, BETWEEN [*landlords*] of &c. of the one part and [*tenant*] of &c. of the other part.

(*p*) An option to purchase should be registered under the Land Charges Act, 1925, s. 10 (1), Class C. (iv). See as to options to purchase *Batchelor* v. *Murphy* (1926), 95 L. J. Ch. 89, H. L.

(*q*) Stamp. *Ad valorem* on the rent.

WHEREBY IT IS AGREED as follows :—

1. The said [*landlords*] hereby let to the said [*tenant*] and the said [*tenant*] hereby takes ALL THAT dwelling-house known by the name and sign of The —— Hotel, with the offices, cellars, coach-houses, stables, buildings, yards and garden thereto belonging, situate at ——, with the appurtenances thereto belonging together with the licences relating thereto and to the businesses carried on therein, TO HOLD the same from the —— day of —— next, yearly, until the tenancy shall be determined as hereinafter mentioned, AT the yearly rent of £——, payable quarterly, on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— in every year, the first payment thereof to be made on the —— day of —— next, without any deductions whatsoever except land tax and landlord's property tax.

2. The said [*landlords*] hereby agree with the said [*tenant*] as follows :—

(*a*) To supply the said [*tenant*] at the said hotel with all such wines, spirits, spirituous liquors, cordials, [stout, porter, ale, beer, and cider], as he shall require [for use at the said hotel], the same to be of the best [*or* good and wholesome] quality, and to be supplied at the market (*r*) [*or* their usual list] prices and upon the usual terms of credit and allowances, PROVIDED ALWAYS that if the said [*landlords*] shall make default in performing the terms of this clause and such default shall not have arisen by reason of neglect or default on the part of the said [*tenant*] to pay for supplies previously made to him, the said [*tenant*] may, during such default, obtain elsewhere such supplies as are necessary to enable him to carry on his business.

(*b*) To keep all the [floors] walls, roofs, and external parts of the said buildings in good repair, during the tenancy, and, within —— calendar months from the date hereof, paint, colour, and whitewash all such external parts thereof as have been painted, coloured or whitewashed, and also tar all such parts of the outbuildings and fences as have been or may require to be tarred.

(*c*) On the termination of the tenancy and the surrender and transfer of the licences relating to the said hotel and business to purchase and take, at the valuation hereinafter mentioned, all the unconsumed stock and utensils in trade, household furniture, fixtures, fittings, effects, and things which shall then be in and about the said hotel stables, outbuildings, and upon the said premises, in consideration of the said [*tenant*] having now purchased and taken them in like manner

(*d*) To make such structural alterations to the said premises as may from time to time be lawfully required by the Licensing Justices (*s*).

(*e*) That the said [*tenant*] paying the rent as aforesaid and observing the stipulations on his part herein contained shall quietly enjoy

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(*r*) See *Charrington & Co., Ltd.* v. *Wooder*, [1914] A. C. 71.
(*s*) See Licensing (Consolidation) Act, 1910, s. 72.

the said premises without interruption by the said [*landlords*] or any person lawfully claiming under or in trust for them or either of them.

3. The said [*tenant*] hereby agrees with the said [*landlords*] as follows:—

(*a*) During the continuance of the said tenancy to pay the said rent in manner aforesaid, and all rates, taxes, and outgoings whatsoever (except land tax and landlord's property tax), which shall hereafter become payable in respect of the said premises with a proportionate part thereof up to the day of quitting, all such as are now due, or a proper proportionate part thereof, being defrayed by the said [*landlords*] up to the date hereof.

(*b*) To keep in good and tenantable repair and in clean and proper order and condition, all the internal parts of the said premises, including the windows, stoves, grates, bells, locks, bolts, bars, fastenings, water-closets, and the pumps and pipes thereto belonging, and empty, cleanse, scour, and keep properly emptied, cleansed, scoured, and in sanitary condition, all the closets, sewers, drains, sinks, cesspools, and shoots belonging thereto, and the same, so repaired, cleansed, scoured, and in such order and condition to deliver up to the said [*landlords*] at the termination of the said tenancy, [reasonable wear and tear thereof excepted,] and at all reasonable times to permit the agents of the said [*landlords*] to enter the said premises to view the condition thereof and to make good any defects which shall be found and of which notice in writing shall be given to him by the said [*landlords*] within two weeks after the date of such notice and in default to permit the said [*landlords*] to make good such defects and pay all costs and expenses incurred by them in so doing.

(*c*) Not at any time during the said tenancy, without the consent in writing of the said [*landlords*] to assign, underlet, or otherwise part with the possession of the said premises, or any part thereof, except to occasional visitors, guests, or servants, or permit or suffer any other person or persons to hold or occupy the same or any part thereof, except in the ordinary course of his business as an hotel-keeper.

(*d*) Not during the said tenancy, without such consent as aforesaid, either directly or indirectly, buy, receive, sell, or dispose of, or [*knowingly*] permit to be bought, sold, or disposed of in, upon, out of, or about the said hotel or premises so to be demised as aforesaid, or any part thereof, any wines, spirits, spirituous liquors, cordials, stout, porter, ale, beer, cider, or other [fermented or spirituous] liquors other than such as shall be supplied by the said [*landlords*], and in case the said [*tenant*] shall do so, to forfeit and pay to the said [*landlords*] the sum of £—— for every specific breach of this stipulation, as liquidated damages and not by way of penalty, such damages to be recoverable

without prejudice to any further remedy of the said [*landlords*], in respect of any of such breaches.

(*e*) To pay on every —— day of each calendar month of the tenancy for all goods supplied to him by the said [*landlords*] during the preceding calendar month, and if any such payments shall be in arrear to pay for such goods in cash on delivery if required by the said [*landlords*].

(*f*) To allow the agents of the said [*landlords*] at all reasonable times to enter any part of the premises and inspect all stores in his possession.

(*g*) At all proper times during the said tenancy to apply for, and endeavour to procure a renewal of the necessary licences for using and keeping open the said hotel for the sale or consumption of all kinds of wines, spirits, and liquors aforesaid, and for the accommodation of customers and guests therein, and on the said premises and to pay all costs incurred in relation thereto.

(*h*) To keep open and conduct the said hotel in an orderly and proper manner, and so that the licences may not be, or become liable to be, forfeited, suspended, or endangered, and so that any application for the renewal of such licences, or any or either of them, or the necessary certificate of the Licensing Justices, may not be refused or opposed and to use his best endeavours to preserve and maintain the business and character of the said hotel in all respects.

(*i*) Not to make any alterations in the said premises except alterations, if any, lawfully required by the Licensing Justices, which shall be made at his own expense (*t*).

(*j*) Upon the termination of the said tenancy, and upon being paid by the said [*landlords*] or an incoming tenant, the value of the licences and of the stock and utensils-in-trade, household furniture, fixtures, fittings, and things at the time on the said premises to peaceably quit and deliver up the same, with the possession of the said hotel to the said [*landlords*] or to such person as they by writing, shall appoint to receive the same.

(*k*) To do all such acts and things on the determination of the tenancy as shall be necessary for transferring to the said [*landlords*] or to the incoming tenant, or to such other person as the said [*landlords*] may direct, all the licences belonging to, or used in connection with the said premises, and the full benefit thereof.

4. The said licences, furniture, fixtures, fittings and things shall be valued by two competent persons, one to be chosen by each of the said parties, and an umpire to be chosen by such valuers before commencing their valuation, and in case either of the said parties hereto shall, for the space of —— days prior to the expiration of the tenancy hereby created, refuse or neglect to appoint his valuer, the other valuer, who shall then be deemed to be the agent of both the parties hereto, shall then proceed alone, and such valuation, whether made by him or the said valuers or

(*t*) This clause should be omitted if clause (*d*) on p. 265 *ante*, is inserted.

umpire, shall be absolutely binding and conclusive on the said parties hereto accordingly. In case the said [*tenant*] shall then be indebted to the said [*landlords*] either for rent or on any other account, the amount thereof shall be deducted from, and retained by them out of the amount of the said valuation.

5. The said [*landlords*] shall have and be entitled to exercise, at all times hereafter, all such rights, powers, and remedies as landlords ordinarily possess in cases of rent in arrear upon common demises over and in respect of the stock and utensils-in-trade, fixtures, fittings, and things belonging to the said [*tenant*] then being in and upon the said hotel and premises for the recovery of any amount due to them for wine, spirits and spirituous and other liquors, or any other goods, articles, or things sold and delivered by him to the said [*tenant*] for money advanced to him, and for the value of any repairs or other works done by the said [*landlords*] in consequence of the refusal or neglect of the said [*tenant*] to do them conformably to his agreement for that purpose hereinbefore contained (*a*).

6. If the said [*tenant*] shall, at any time, fail, refuse or neglect to perform any of the stipulations and agreements herein contained, and which, on his part, ought to be performed, or shall become bankrupt, or shall make any composition with, or assignment of his effects, or any of them, to or for the benefit of his creditors, or shall permit any execution to be levied on his goods, or shall permit or suffer the said hotel or buildings to be shut up except during the general hours of closing, or shall refuse or neglect to pay, on demand, [or within —— days after] any rent in arrear or any debt amounting to £—— lawfully due to the said [*landlords*] for goods sold and delivered, or on any other account, as aforesaid, or shall do, or permit, or suffer to be done, any act or thing whatsoever whereby the licences for the said hotel shall become liable to be forfeited, or to be refused or suspended, or whereby any application for renewal shall be refused or whereby he shall become disqualified for holding any such licence, or having become so disqualified previous to the execution of this agreement, shall, at the time of such execution, fail to inform the said [*landlords*] thereof, or shall be convicted of any offence of a criminal nature [affecting the business of the said hotel or the [said licences] then, and in any such case the said [*landlords*] or their agent, or others authorised by them or on their behalf, shall be at full liberty to enter into and upon and take and retain possession of the said hotel and premises, and to remove the said [*tenant*] and his family, and others then being therein and thereon and the said [*landlords*] are hereby expressly authorised and empowered in either of the cases aforesaid, to do, or cause to be done, all acts and things as may be necessary for taking, holding or transferring the said licences to such person or persons as they may appoint, and also for taking and recovering possession of the

(*a*) The Court of Appeal held in *Stevens* v. *Marston* (1890), 60 L. J. Q. B. 192, that this power of distress was a "licence to take possession of personal chattels as security for a debt," and therefore, by virtue of s. 4 of the Bills of Sale Act, 1878, a bill of sale within that Act, and consequently void for want of registration, though the agreement remained valid in other respects. This clause is, therefore, in the present state of the law as to Bills of Sale, of doubtful utility.

said hotel and premises, with the stock, trade utensils, furniture, fixtures, fittings, effects and things of the said [*tenant*] then being therein, or thereon, and to dispose of the stock, utensils, furniture, and effects as their own, either by appraisement or valuation, as hereinbefore mentioned, or in any other manner they or their agent shall think proper, or be advised, the said [*landlords*] or the incoming tenant, or other person paying the proceeds, arising from the disposal of the said stock, utensils, furniture and other effects, after deducting thereout the rent and debt, if any, then due as aforesaid, and the expenses of and attending the said seizure, valuation or appraisement and sale, and the costs of and attending the transfer of the said licences and the amount of any dilapidations on the said premises, if any, as aforesaid, unto the said [*tenant*] or as he may direct.

7. It shall be lawful for either of the said parties to determine the tenancy hereby created by giving to the other of them —— calendar months' notice in writing for that purpose.

IN WITNESS, &c.

[*Signatures of both parties.*]

145.

AGREEMENT for Lease of Mines at a Royalty (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. of the one part and [*lessee*] of &c. of the other part.

WITNESSETH as follows :—

1. The said [*lessor*] [who is tenant for life with power of leasing of the hereditaments hereby agreed to be demised] hereby agrees to grant to the said [*lessee*] a lease of ALL THOSE the several pieces or parcels of land situate at &c. containing by admeasurement —— acres, and more particularly described in the Schedule hereunder written and delineated in the plan hereto annexed and therein coloured —— TOGETHER with all mines, veins, and beds of iron-stone and iron-ore [*or* copper *or* tin *or as the case may be*] lying and being under the surface of the said lands. TO HOLD the same except as hereinafter mentioned to the said [*lessee*] for the term of —— years determinable as hereinafter mentioned at the rents and royalties hereinafter specified.

2. The following liberties and rights shall likewise be demised for the said term to the said [*lessee*] for himself his miners, agents, workmen and servants and other persons with his or their authority :—

(1) At all times during the said term, to enter upon the said lands and to [manage and cultivate such part or parts thereof as may not be required for the purposes hereinafter mentioned, according to the agricultural system or usage in the district in which the same are situate (*c*) and to] appropriate all such and so many

(*b*) Stamp. *Ad valorem* on the rent reserved. The lessor is also liable for mineral rights duty under the Finance (1909–10) Act, 1910, ss. 20–24. As to mining leases and licences generally see the Encyclopædia of Forms, 2nd Ed. vol. 9, p. 213.

(*c*) If the surface soil be not arable or pasture land, of course the words within brackets must be omitted.

part or parts thereof respectively as shall be considered necessary or convenient for opening or working the said mines, veins, or beds, or any of them, and for carrying on the necessary operations relating thereto.

(2) To open, drive, work and make cuttings, adits, tunnels, embankments, levels, calcine-hearths and causes, sloughs, ponds, dams, trenches, drains, watercourses, bridges, pathrails, tram and other roads, ways and passages in, under, over and upon the said lands or any parts or part thereof as he or they shall deem expedient, convenient, or desirable for all or any of the purposes aforesaid and for draining, raising and discharging water from any such mines, pits, beds, shafts, sloughs, ponds, dams, or trenches, and for conveying the same over, along, and from the said lands into proper channels or streams.

(3) To dig, delve, and excavate such part or parts of the said lands as he or they shall think fit, and to sink any shaft or shafts therein for the purpose of searching for, and working the said mines, veins or beds, and for raising and discharging all the ores and products thereof, and stacking, storing, calcining, dressing, treating and making the same merchantable [except by smelting], on the surface of the said land according to the general custom or usage in the district (*d*), and to sell, dispose of, and carry away the same for his and their own use and benefit.

(4) To erect and set up all such engines, whimsies, gins, and other machinery, [cottages, offices, stables,] buildings and sheds on and upon the said lands, or any part or parts thereof, as the said [*lessee*] shall, from time to time, consider necessary or desirable for all or any of the purposes aforesaid and generally to do all such other acts and things, and to use all such other devices, appliances and means as he or they shall deem necessary or expedient for the more expeditious, beneficial or effectual working of the said mines, veins or beds according to the most improved system or practice in mining operations in the said district.

(5) *If the lessee is to have special liberty to convert any of the excavated soil or underlying bed, or veins, which may be suitable for bricks, add*—To dig, and search for, open and excavate any part or parts of the said lands which shall be found to contain any bed or vein of brick-clay or brick-earth, and to manufacture, calcine or otherwise convert the same, or such part or parts thereof as he shall think fit, into bricks and tiles, without paying any royalty for such of them as shall be used in the erections and works aforesaid, but paying to the said [*lessor*] a royalty of —— shillings per thousand for such of the bricks, and —— shillings per thousand for such of the tiles as shall be made and removed from off the said lands for sale or otherwise the said [*lessee*] levelling the part or parts so worked, in the usual manner [or, as the [*lessor's*] agent shall direct.]

(*d*) The customs as well as the mode of working the different mines, vary in almost every district according to the nature of the ores and situation of the mines.

3. There shall be excepted from the demise hereby agreed to be made :—

(1) Full power and liberty for the said [*lessor*], or his miners, agents, workmen, servants, and others authorised by him to enter on the said land, to search for and open the same for his own benefit for the purpose of winning and working all mines and minerals not demised to the said [*lessee*] and to sink shafts and work such mines, pits, and beds in all respects according to the powers and authorities hereinbefore given to the said [*lessee*] in respect of the premises to be demised to him as aforesaid, or as nearly thereto and consistently therewith as circumstances may permit or require, causing, in the exercise of such right or otherwise, as little damage or obstruction as may be to the said [*lessee*], and no unnecessary annoyance to any of his miners, agents, workmen, servants, or others employed by, or having business transactions with him, and paying him a proper compensation for all losses or damages which may be occasioned by or arise therefrom to the lands, mines, and premises hereby agreed to be demised as aforesaid which compensation shall, in case of disagreement between the parties, be ascertained by reference, as hereinafter mentioned.

(2) Full and free right of the said [*lessor*] and his miners, agents, workmen and servants, at all times, to enter into and make use of such of the shafts and pits as the said [*lessee*] shall have abandoned or permanently ceased to work or use, for his own purposes or benefit the said [*lessor*] making due allowance or compensation for the said shafts, and the materials and labour used in the construction thereof which allowance or compensation shall, in case of disagreement as aforesaid, likewise be ascertained by reference, as hereinafter mentioned.

(3) Full right for the said [*lessor*] and his surveyors, bailiffs, and agents, at all reasonable times, in the daytime, [after having given the agent, for the time being, in charge of the said mine or pit —— hours' previous notice] to enter upon the said lands and to examine the working of the said mines and pits and measure the produce thereof, for the information of the said [*lessor*].

(4) Full and free right or liberty for the said [*lessor*] and his agents, bailiffs, workmen, servants, and others, with his authority, at all reasonable times, in the daytime, during the said term, with or without horses, cattle, and other animals, and with or without carts, waggons, or other vehicles, laden or unladen, to pass or repass on, over, and along all or any of the roads, including tram and other roads, used by the said [*lessee*] on, over or under the lands demised but not so as to occasion any obstruction or delay to the miners, workmen, servants, or others employed by the said [*lessee*] in their lawful occupation, or to his vehicles, horses, or other animals aforesaid, the said [*lessor*], making a proper compensation for the same, such compensation, in case of disagreement, to be ascertained as aforesaid

(5) Full and free right or liberty for the said [*lessor*], his surveyor,

agents, workmen, and servants to form, set out, and lay down any tram or roadway not exceeding —— feet in width, over, across, and along any unoccupied part of the land to be demised as aforesaid to other adjoining lands or property belonging to him [*or*, to the —— railway station called The —— Station, at —— aforesaid, standing near to the said premises] together with the necessary embankments, bridges, viaducts, watercourses, docks, sidings, buildings, sheds, engines, machinery, and other works and things which may be deemed necessary for the complete use and enjoyment of such tram or roadway either on foot or horseback and with or without horses, carriages, trucks, and other carriages, and vehicles for carrying or conveying ores, minerals, or other substances or things raised or produced, either from the premises to be demised as aforesaid, or from other adjoining or adjacent lands belonging to the said [*lessor*] but the said [*lessee*] his agents, miners, workmen, servants, and others with his authority shall, at all times during this demise, be at full liberty to use the said tram or roadway, when completed, at all seasonable times for his own purposes in as full and ample a manner as the said [*lessor*].

4. The said [*lessee*] shall pay to the said [*lessor*] the following rents and royalties :—

(1) A fixed or dead rent of £—— payable by equal half-yearly instalments on the —— day of —— and the —— day of —— in every year during the said term the first payment to be made on the —— day of ——

(2) A fixed surface rent of £—— per acre for every acre and so in proportion for any less quantity of an acre which the said [*lessee*] shall take and use for any buildings, works, spoil banks or other purposes herein mentioned, such rent to be paid at the same time as the said fixed rent

(3) A royalty in the nature of and to be recoverable as ordinary rent of —— for every ton of —— pounds weight of [argillaceous ironstone] and of —— for every like ton of [hæmatite iron ore] raised from the demised premises.

(4) A royalty by way of wayleave rent of —— pence for every like ton of minerals of whatsoever kind brought to the surface through the premises hereby agreed to be demised each payment of such royalty to be made on such of the half-yearly days appointed for payment of the said fixed rent as shall happen next after such wayleave shall have been exercised.

5. Except as hereinbefore mentioned all royalties shall be paid half-yearly on the days appointed for payment of the said fixed rents and all rents and royalties shall be paid without deduction except for landlord's property tax [and mineral rights duties] (*e*).

(*e*) As to mineral rights duties see Finance (1909–10) Act, 1910, ss. 20–24. The words in brackets will be applicable in cases where the tenant sublets the mineral rights (see s. 21 (1)). The excess mineral rights duty imposed by the Finance (No. 2)

6. In any half-year the amount of the royalty specified in paragraph (3) of clause 4 hereof shall be payable only in respect of every ton raised in excess of the number of tons the royalty on which would amount to the half-yearly instalment of the said fixed rent of £——. If in any half-year the said [*lessee*] shall not raise the last mentioned number of tons the said [*lessee*] may in any subsequent half-year or half-years raise such amount as shall be necessary to make good such deficiency without paying any royalty in respect thereof under paragraph (3) of clause 4 hereof.

7. Wayleave rent shall not merge in the said fixed rent.

8. The said [*lessee*] will by the said lease covenant with the said [*lessor*] as follows :—

(1) To duly pay the said rents, royalties and all rates, taxes, and all other assessments whatsoever on and payable in respect of the said land, buildings, and works, when and as they shall respectively become due, during the said term.

(2) Before entry to tender the present tenants of the said lands respectively, a reasonable compensation for their growing crops, unexhausted manures, and other tenant-rights, and in case of disagreement as to the amount thereof, the same shall be ascertained by valuation as hereinafter mentioned.

(3) From time to time during the said term to spend and spread, in a husbandlike and proper manner, all the surplus stones, slag, refuse, and rubbish arising from the said mines, pits, beds, or works aforesaid, in levelling, as far as the same will extend, the openings or undulations caused by the said works, and so that the same may henceforth become fit to be used for agricultural or horticultural purposes and to leave the same in such state at the termination of the said term, or, in default thereof, to pay the said [*lessor*] a sum of £—— in respect of every acre, and so in proportion for any less portion than an acre as a compensation in respect thereof, such sum to be deemed settled damages between the said parties.

(4) To construct and during the said term maintain all such ditches, trenches, and drains as may be necessary for conveying the surplus surface water from off the said lands.

(5) To erect all such suitable and necessary fencing and gates around and against all the shafts, pits, pounds, tramways, roadways, and surface works to be made, formed, opened, and worked as aforesaid, so as to protect and secure the same against all loss, or injury, both to human beings and to sheep, cattle, and other animals, carts, waggons, and other vehicles, whether laden or unladen, passing to, from, across and over all or any of the said roads, including tram and railroads, which may be made or used by the said [*lessor*] by virtue thereof.

(6) To indemnify the said [*lessor*] against all losses, damages, and expenses which he may sustain, expend, or be put to by reason

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Act, 1915, s. 43, in cases where the rent varied according to the price of the minerals, was abolished by the Finance Act, 1921 (11 & 12 Geo. 5, c. 32).

or on account of any neglect, misconduct, or non-performance of the last-mentioned precautions.

(7) During the said term to keep all the erections, engines, machinery, pits, shafts, tram and roadways, fences, ditches, drains, and watercourses aforesaid, in good repair and condition during the said term, and leave the same in such repair and condition at the termination thereof.

(8) Before quitting the said lands to properly fill, arch over, and cover up, with a sufficient depth of soil, all such pits, shafts, and adits as shall be opened by him, unless the said [*lessor*] shall, in writing, require the same to be left open.

(9) At all times, during the said term to work, carry on and manage his mining operations on the said land, and delve and work the said pits, veins, and beds to their proper depth, in all respects according to the custom or usage of the said district.

(10) Throughout the said mining and attendant works, constantly to employ, in and about the same, skilful and careful miners, workmen, and servants, and proper and sound engines, machinery implements, utensils, and other things and suitable horses for the purposes aforesaid.

(11) To set up one or more good and correct weighing machines in some convenient place or places on the said premises for the purpose of weighing the said [ironstone], ores, and minerals, to be raised therefrom as aforesaid, and keep the same in proper balance and repair during the said term, and cause all the products subject to the said royalties, or any of them, to be brought to and weighed by such machines.

(12) To permit the said [*lessor*] or his agents to be present on every occasion of such weighing, and at all other times to examine and test the accuracy of such machines, and to take accounts or notes of the quantities weighed, and of any other particulars or acts relating thereto, or to the said mines, pits, or beds or the said mining operations and to permit him and them at all times, during the said term, on request, to enter into and upon the said land, buildings, shafts, and works, to inspect the same, and to enter and descend into and again to ascend to the surface from the mines or pits, when opened, to examine the working thereof and to provide and permit him and them to use sound and proper ropes, tackle, and other appliances for those purposes upon every such occasion.

(13) Throughout the said term to keep, or cause to be kept, in a clear handwriting, accurate, plain, and faithful entries and accounts of the several quantities of [ironstone and] ores, and minerals so raised as aforesaid, and the dates when so respectively raised, and of all other things usually entered and accounted for according to the custom or usage of the said district, in such books as the said [*lessor*], or his agents, may require for the better calculating, facilitating, ascertaining, and checking such quantities or accounts, or for any or either of the purposes aforesaid,

and for giving the said [*lessor*] the full and true benefit of the rents and royalties to become payable by virtue hereof and to permit the said [*lessor*] and his agents, on request, to examine and make copies of, or extracts from such books of account and entries, which are to be kept in an office on the demised premises.

(14) Within —— days next after the —— day of —— and the —— day of —— in every year during the said term to deliver to the said [*lessor*], or to his agent, a clear, true and faithful statement of the several quantities of all the [ironstone], ores, and minerals raised from the said land during the preceding half-year, and of all rent, and royalties payable in respect thereof as aforesaid and to verify the same, if required, by the statutory declaration of himself or some person duly qualified, and able to attest the truth thereof.

(15) As far as in him lies to prohibit and prevent the sale and use of excisable liquors of any description, and of tobacco or combustibles on the said land, and in the said mines, pits, and shafts.

(16) To observe and perform, in the working of the said mines and pits, and in the erection and working the said shafts, all statutory regulations and provisions for the time being relating thereto and indemnify the said [*lessor*] against all liability, damages, and expenses which may be occasioned by non-observance, non-performance, or otherwise in respect thereof.

9. The said [*lessee*] shall be at full liberty, when and as he shall think fit, to build on such portions of the said land as the said [*lessor*] shall approve, and shall thenceforth hold the same as land taken for building purposes as aforesaid, and pay such rent in respect thereof as shall be proportionate to that hereinbefore mentioned and shall also be at liberty, without such approval, to erect any cottages or dwelling-houses and offices on the said premises and appropriate gardens thereto, for the residence and use of his agents, miners, workmen, or servants employed in the said mines, pits, and works during the said term.

10. The said [*lessor*] will in the said lease covenant with the said [*lessee*] that the said [*lessee*] duly and punctually paying the said rent and royalties and observing and performing the stipulations on his part to be observed and performed shall peaceably enjoy the mines, premises, liberties and powers hereby agreed to be demised during the said term without any interruption by the said [*lessor*] or any person rightfully claiming under him, but his covenant shall not prejudice or restrict the said [*lessor's*] powers herein contained of working minerals not hereby agreed to be demised.

11. The said lease shall also contain the following provisions :—

(1) Power for the said [*lessor*] if any part of the said rents and royalties shall be in arrear for [21] days to enter upon the demised premises and any adjoining premises held or occupied by the said [*lessee*] (*f*) and distrain upon all minerals then got and the

(*f*) See *Daniel* v. *Stepney* (1874), L. R. 9 Ex. 185 ; *Re Roundwood Colliery*, [1897] 1 Ch. 373.

plant machinery horses and chattels thereon for the purpose of recovering payment of such arrears and all costs incurred in connection therewith.

(2) Power for the [*lessor*] to re-enter if any rent or royalty shall be in arrears for [21] days or if the said [*lessee*] shall cease to work the said minerals for [6] calendar months without being prevented from so doing by strikes or inevitable accident or if the said [*lessee*] shall commit any breach of any agreement on his part herein or in the said lease contained or shall be adjudicated bankrupt.

(3) Power for the said [*lessee*] by six months' previous notice in writing to determine the said lease if the whole of the demised minerals shall without any default of the said [*lessee*] become unworkable.

12. The said intended lease and counterpart thereof shall be executed on or before the —— day of —— next and shall be prepared by the solicitor for the said [*lessee*] at the cost of the said [*lessee*], and, if required, be approved by the solicitor for the said [*lessee*] and the same shall contain such or similar clauses, stipulations, and agreements to those herein mentioned, and also all such other clauses, stipulations, covenants, conditions, exceptions, reservations, and agreements as are usually inserted in leases of the same or similar mines in the said district. If such solicitors shall disagree the said lease shall be finally settled by Mr. —— as counsel for both parties.

13. All disputes, questions, or differences which may arise between the said parties, during the said term, [either respecting the opening of the said mines, pits, or beds, or the sinking of the said shafts, or the works aforesaid, or otherwise,] except as to the contents of the said lease shall be referred to two arbitrators, one to be appointed by each party, or their umpire, such arbitration to be conducted in all respects according to the Arbitration Act, 1889.

IN WITNESS, &c.

[*Signatures of both parties.*]

146.

AGREEMENT for Mining Lease of Coal where Rents are ascertained by Reference to Acreage (*g*).

AN AGREEMENT made the —— day of —— BETWEEN [*lessor*] of &c. (hereinafter called the lessor) of the one part and [*lessees*] of &c. (hereinafter called the lessees) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The lessor agrees to grant and the lessees agree to accept a lease for the term of [50] years from the —— day of —— of ALL THOSE [three]

(*g*) Stamp. See note (*b*), p. 269, *ante*. See the Mining Industry Act, 1926 (16 & 17 Geo. 5, c. 28), Butterworths' 20th Century Statutes, vol. 23, pp. 121 *et seq.*

several seams or veins of coal commonly called or known by the names of [*specify the names of the seams*] lying under the lands situate at —— and delineated and coloured [red, blue, and green] on the plan hereto annexed. TOGETHER with the usual powers to sink pits and shafts, make roads and ways and erect works to enable the lessees to work, win and carry away the said coal and get from the land coloured [blue] clay for the purpose of making bricks to be used in the erection of buildings upon the said lands and to make railways and tramways upon any of the said lands, making compensation for any damage to the surface occasioned by any of the works aforesaid.

2. The said lease shall reserve to the lessor the usual powers to view, search and inspect the condition of the works and to require production of the books of the lessees and delivery of half-yearly accounts, and shall also reserve to the lessor all beds of coal, ironstone, fire-clay, and other minerals and substances above and below the seams of coal hereby agreed to be demised.

3. The rents payable under the said lease shall be as follows :—

(1) For the first and second years of the said term the annual rent of £[50].

(2) For the third year of the said term the rent of £[150].

(3) For the fourth year of the said term the rent of £[300].

(4) For the fifth and every subsequent year until the whole of the said coal shall have been paid for under the proviso in that behalf hereinafter contained the sum of £[750].

4. The said annual rents shall be redeemable by working and the lessees shall be allowed to win and work coal from any of the seams agreed to be demised at the following rates :—

(1) The [—— seam] coal at £[5] per inch per acre and any part of the said seam which shall be only ordinary black coal at £[2] per inch per acre.

(2) The [—— seam] coal at £[3] per inch per acre.

(3) The [—— seam] coal at £[2] per inch per acre with overgettings at the above rates half-yearly and undergettings to be made up in future half-years.

5. The main winning consisting of the engine, pit and principal drawing shaft shall be situate on the land coloured [blue] on the said plan, and wayleaves (*h*) or shaft rents for all coals and other minerals which may be drawn from the other estates owned or leased by the lessees by means of such main winning shall be paid to the lessor at the rate of £—— per ton.

6. If the lessees shall be unable to obtain access to any detached portion or portions of the said lands they shall not be required to pay for any coal lying thereunder. But the lessees shall before the expiration of the [tenth] year of the said term give the lessors notice in writing

(*h*) Mineral rights duty is payable thereon (*Shawe Storey* v. *Inland Revenue Commissioners*, [1914] 1 K. B. 87.

of such inability to obtain access as aforesaid, and if the lessors do not purchase access to any detached portion or portions within [twelve] calendar months from the delivery of such notice in relation thereto the demise of such detached portion or portions shall be determined and the lessors shall be at liberty to relet or deal with the same as they think fit.

7. In no case shall any minimum rent paid on account of coal in advance of the getting and working such coal be repaid by the lessor.

8. The lessees shall be at liberty to abandon any bed or beds of coal which shall be proved to be unworkable at a profit to the satisfaction of two arbitrators or their umpire, one of such arbitrators to be chosen by each party hereto and the umpire to be chosen by the arbitrators before entering upon the arbitration. The expenses of such arbitration shall be borne as the arbitrators or their umpire shall direct, and such arbitration shall be conducted in accordance with the Arbitration Act, 1889.

9. The lessees shall have power to make, construct and maintain tramways, railways and sidings connecting the pits and shafts on the land coloured [blue] on the said plan with the —— Railways at such point or points between the letters A and B on the said plan as the lessees and the —— Railway Company may arrange.

10. The lessees shall have power to enter upon and from time to time take possession of any lands in the possession of the lessor and forming part of the —— Estate as may be necessary to enable the lessees to sink the said pits and shafts and make and construct all other necessary works for the purposes of working the said coal and exercising any power hereby conferred upon the lessees.

11. The said lease shall contain proper provisions for giving effect to the stipulations of these presents, and shall in other respects conform as closely as may be to the usual form of colliery lease in connection with the —— Estate [*or* in the district in which the said seams of coal are situate]. If any dispute shall arise in connection with the form and contents of the said lease the same shall be determined by arbitration in manner specified in clause 8 hereof [*or* by Mr. —— of &c. mining engineer].

12. The costs of and incidental to this agreement which is executed in duplicate and of and incidental to the said lease and a counterpart thereof incurred or to be incurred by the parties hereto shall be borne and paid by the lessees.

IN WITNESS, &c.

[*Signatures of both parties.*]

147.

AGREEMENT for Lease of Copper Mines. Short Form (*i*).

THIS AGREEMENT made the —— day of —— BETWEEN the [*lessor*] of &c. of the one part and [*lessee*] of &c. of the other part.

(*i*) Stamp. See note (*b*), p. 269, *ante*.

WITNESSETH as follows :—

1. The said [*lessor*] hereby agrees on or before the —— day of —— next, to grant unto the said [*lessee*], at the rent hereinafter mentioned, and for the term of —— years, commencing from that date, a lease of ALL the mines, veins, pits, beds, strata, and depositories of [copper] and other ores, minerals, and metals, lying and being in and under, and the usufruct of ALL THOSE [*parcels*] TOGETHER with full and free liberty, and authority for the said [*lessee*], and his and their agents, miners, workmen and servants, from time to time, and at all times during the said term, to search, dig, delve and open the same, and for such purposes to make all such excavations, dams, pits, drains, and watercourses, and to erect all such mills, shafts, buildings, engines, and machines, and do all such other works as shall be found or considered necessary for properly and effectually opening, working, and carrying on mining work and operations on and in the said premises, and to dig, take, raise upon the surface, sell and remove, or permit others to remove and carry from off the said premises, all such parts of the soil, ores, and the refuse thereof, as shall not be required for all or any of the purposes aforesaid.

2. THE SAID [*lessee*], who has now paid a deposit of £—— in confirmation of this contract, hereby agrees with the said [*lessor*] that he will accept the said intended lease and execute a counterpart thereof, and also open and work the said mines upon the terms, stipulations, and conditions herein expressed or usually inserted in leases of similar mines in the same district (*k*).

3. The said lease and counterpart shall be prepared forthwith, [*or* on or before the —— day of ——] by the solicitor for the said [*lessor*], and approved by the solicitor for the said [*lessee*] who shall bear and pay all the costs and expenses of, attending and incident to the same, and of this agreement.

4. The said lease shall contain the terms and conditions herein expressed, and all such other covenants, conditions, reservations, exceptions, stipulations, and agreements as are usually inserted in leases of similar mines in the same district (*l*), and particularly a covenant on the part of the said [*lessee*] to pay a rent, royalty, or sum in the nature of rent, of £—— for every ton of ores, minerals and metals, which shall be found and raised from the said land, the same being, before weighed or measured, properly washed, scoured, and cleansed and fit for smelting purposes and being then measured and reckoned according to the ordinary custom of the district in such cases. The said royalty shall be payable [quarterly], commencing from the date of the said intended lease [*or* the —— day of —— next] clear of all deductions whatsoever except landlord's property tax.

(*k*) Inasmuch as mining leases to a particular district generally follow a settled form which is accepted throughout the locality, a clause of the above kind is usually as effective as clauses setting out the terms of the proposed lease in full.

(*l*) For forms of mining leases in vogue in various counties see Encyclopædia of Forms and Precedents, 2nd. Edn. vol. 9, p. 249 *et seq.*

5. The said [*lessee*] will at all times during the said term, unless prevented by inevitable accident, carry on the said work, and raise and clear, as well the said ores, minerals, and metals, as also the surplus earth, soil and rubbish in and upon the said lands, in all respects according to the best, most improved and generally adopted methods in the district of opening, clearing, and carrying on the works and business of collieries.

6. Until the said lease shall be executed, the said [*lessee*] and his agents, workmen, and others, with his authority, shall be at full liberty to enter upon the said land to prepare for commencing (but not to actually commence) the said works, and to carry and deposit on the said land all such engines, apparatus, tools and materials as shall be necessary or proper for that purpose, he and they doing no unnecessary damage to the surface of such land.

7. In case the said lease shall not, from any cause, be granted as aforesaid, the said [*lessee*] shall cause any such engines, apparatus, tools, and materials then being on the said land to be removed from off the same, and shall pay the said [*lessor*] for any damage occasioned to the surface, whether by the carrying and depositing or by removing the same, such damage, if any, to be ascertained by the valuation of Mr. —— of —— or him failing Mr. —— of ——.

IN WITNESS, &c.

[*Signatures of both parties.*]

148.

AGREEMENT for Yearly Tenancy of a Brickfield (*m*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 137, p. 243, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The landlord will let and the tenant will take ALL THAT piece or parcel of land situate on —— farm at —— in the county of —— and more particularly delineated on the plan hereto annexed and thereon coloured [red] together with a right for the tenant his servants and workmen to pass and repass with or without horses, carts and waggons over the road coloured [brown] on the said plan between the points A and B marked thereon for the term of one year from the date hereof and thenceforward until determined as hereinafter mentioned.

2. The tenants shall be at liberty to get by open workings only all clay, brickearth, sand and other substances used for brickmaking from the said land to a depth not exceeding —— feet and to manufacture the same into bricks and tiles on any part of the said land [distant at lease [500] years from the farmhouse marked on the said plan].

(*m*) Stamp. *Ad valorem* on the rent. No mineral rights duties are payable in respect of common clay, brickclay or brickearth, or sand, chalk, limestone or gravel (Finance Act, 1910, s. 20 (5)).

3. The tenant shall be entitled to abstract and use for the purpose of such brickmaking water from the stream coloured [blue] on the said plan but not so as to injure any person having riparian rights in the said stream.

4. The tenant shall pay to the landlord a fixed rent of £—— per annum by equal half-yearly payments on the —— day of —— and the —— day of ——, the first payment to be made on the —— day of —— next. Each half-yearly payment of £—— shall free the tenant from all liability to pay royalties on the first —— thousand bricks made on the premises during the half-year preceding such payment but the said rent shall always be payable whether the said amount of bricks has been so made or not.

5. The tenant shall pay to the landlord a royalty of —— shillings per thousand bricks manufactured on the said land and a royalty of —— shillings per thousand tiles so manufactured. The royalties shall be paid on the said half-yearly days and no deduction from the said rent or royalties except for landlord's property tax shall be made. Bricks and tiles used in the construction or maintenance of any kilns, ovens, or other works erected on the said land shall be free of royalty and shall not be counted as bricks made on the premises within the meaning of clause 4 hereof.

6. The tenant shall (1) pay all rates and taxes payable in respect of the said land, (2) remove and preserve all surface soil, (3) work the land in sections to the landlord's approval and work out old land to the full depth authorised before breaking new land, (4) reinstate and restore the surface at the determination of the tenancy, (5) during the tenancy continuously and effectually get the said clay, brickearth, sand, and other substances and manufacture on the said land and not elsewhere unless prevented by strikes or other inevitable accident (6) permit the landlord to enter and inspect the works and materials thereon and (7) furnish the landlord with half-yearly accounts on the —— day of —— and the —— day of —— showing the number of bricks and tiles respectively manufactured during the preceding half-year and at all times keep duly posted up proper books of account relating to the working and produce the same to the landlord on request.

7. The tenant shall further indemnify the landlord against all claims and damages in respect of any nuisance or annoyance which may be caused to any person or persons by anything done by the tenant on the said land.

8. The landlord shall have power (1) if any part of the rents or royalties shall be in arrear for 21 days to enter upon the said land and any adjoining property held or occupied by the tenant and distrain upon all clay, brickearth, sand and other materials actually gotten and all bricks and tiles thereon and the loose plant and chattels thereon for recovery of such arrears and the costs of such distress, and (2) if any rent or royalty shall be in arrear for 21 days or if the tenant shall commit any breach of any stipulation on his part herein contained or be adjudicated bankrupt to re-enter upon the said land or any part thereof in the name of the whole

and thereupon the tenancy hereby created shall absolutely determine but without prejudice to any claim or demand against the tenant which may have previously accrued to the landlord.

9. Either party may determine the tenancy at any time after the —— day of —— by three calendar months' previous notice in writing expiring on either of the days appointed for payment of rent sent to the other party at his last known address.

10. Upon the determination of the tenancy the tenant shall deliver up the said land and all additions and fixtures thereon in good condition to the landlord. PROVIDED ALWAYS that if the said tenancy shall be determined by the landlord under clause 9 hereof before the —— day of —— the landlord shall purchase all kilns, ovens, sheds, and buildings erected by the tenant on the said land at a valuation to be made by two valuers one to be appointed by each party or their umpire appointed before they enter on the said valuation.

AS WITNESS, &c.

[*Signatures of both parties.*]

149.

AGREEMENT for Lease of Quarry of Sandstone and Brickfield (*n*).

THIS AGREEMENT made the —— day of —— BETWEEN [*landlords*] of &c. (hereinafter called the landlords) of the one part and [*tenant*] of &c. (hereinafter called the tenant) of the other part.

WITNESSETH as follows :—

1. The landlords agree upon the receipt by them of a request in writing by the tenant to grant, and the tenant agrees without requiring or investigating the landlord's title to accept a lease of ALL THAT bed of sandstone situate at —— and containing —— acres, or thereabouts, all which premises are delineated and coloured [red] on the plan hereto annexed, and more particularly described in the schedule hereto, for and during the term of [one] year from the —— day of ——, and thenceforward from year to year until the demise shall be determined at the end of the first or any subsequent year by the landlords giving to or leaving at the last known place of abode of the tenant, or the tenant giving to or leaving at the last known place of abode of one of the landlords, six calendar months' previous notice in writing.

2. The tenant shall by the said lease be empowered

(1) To dig, excavate, and carry away, sell, or dispose of the said sandstone and to do all such acts as may be necessary or proper for the purpose of effectually working, getting and disposing of the same.

(2) To get, work, and manufacture into bricks the common brick clay and other materials used in the manufacture of bricks

(*n*) Stamp. See note (*m*), p. 280, *ante*.

in or under the said premises and to sell or dispose of the bricks so manufactured and to do all such acts as may be necessary or proper for the purpose of effectually manufacturing, working and disposing of the same.

3. The tenant shall pay to the landlords the certain yearly rent of £[150] to be paid by equal half-yearly payments on the —— day of —— and the —— day of —— in each year, and the further yearly surface rent of £[20] in respect of the said quantity of —— acres to be comprised in the said lease such rents to be paid by equal half-yearly payments on the days aforesaid, the first half-yearly payment of both the said rents to be made on the —— day of —— next.

4. The said certain yearly rent of £[150] shall be redeemable by working the said stone and making the said bricks, and the tenant shall be allowed to work the said stone and make the said bricks at the following rates, namely:—The stone at [three] shillings per superficial square yard and the bricks at [two shillings and sixpence] per thousand bricks, burnt with overgettings at the above rates half-yearly and undergettings to be made up in future half-years.

5. The tenant shall at his own expense construct and maintain in good and substantial repair a cart road from the point marked A on the said plan to the gate situate at the point marked B on the said plan and shall pay the occupier of the land required for making the said road all sums to which the occupier shall be equitably entitled in respect of damage to crops and tillage, and also a sum equal to [*or* double] the rent paid by the occupier in respect of the particular land so required.

6. The tenant shall, for the purpose of carrying away the said stone and bricks, have a right to use the private road leading from the point marked B on the said plan to the highway leading from —— to ——, he keeping the said private road in good and substantial repair at his own expense.

7. The said lease shall contain covenants by the tenant to the effect of the agreements on his part hereinbefore contained and also the following covenants:—

(1) To pay the said rents on the days and in manner aforesaid and to pay all existing and future rates, assessments, and outgoings of every description for the time being payable by the landlords or the tenant in respect of the premises to be comprised in the said deed (except landlord's property tax).

(2) To erect and maintain a good and substantial fence between the land which the tenant shall for the time being occupy as a quarry or for any purpose connected herewith and the adjoining lands for the protection of cattle, sheep and other animals being on such adjoining lands.

(3) To maintain and keep in good and substantial repair any cart road or private road which may be used by the tenant for the purpose of carrying away the said stone and bricks.

(4) In working and getting the said stone to remove the surface soil to some convenient part of the said land to be approved by the

landlords and preserve the same for the use of the landlords and to spread the soil thereon from time to time in such manner as the landlord shall direct.

(5) To work, get, and carry away the said stone in a proper and workmanlike manner continuously and uninterruptedly and in the best method.

(6) To keep or cause to be kept regular books of account wherein shall be correctly entered by the tenant from time to time particular accounts in writing of the number and description of bricks burnt upon the premises, and of such quantities thereof as shall be sold and carried away, and of the prices obtained therefor and of the several dates of the manufacture and sale thereof respectively and at all seasonable times to permit the landlords and their agents for the time being to inspect the said books of account and other sale books kept at the premises and to make copies thereof or extracts therefrom.

(7) Not to part with the possession of the said stone, brick, clay, liberties, authorities and premises or any part thereof to any person or persons without the licence in writing of the landlords.

8. The said lease shall also contain the following provisions :—

(1) Power to the landlords or their agents for the time being at all reasonable times to enter upon the said premises and inspect, survey, measure, and ascertain the quantity of stone which shall from time to time have been worked and gotten and the manner of working and getting the same.

(2) Power to the landlords to inspect and ascertain the number of bricks manufactured and burnt on the premises and the manner of manufacturing and getting the same.

(3) Power for the landlords to re-enter on the said premises if any part of the said rents or either of them shall be in arrear for 21 days whether legally demanded or not or if there shall be any breach of any of the tenant's covenants.

(4) Power for the landlords summarily to determine the tenancy without notice in the event of the tenant having a receiving order made against him or making a composition with his creditors.

(5) A proviso that if the tenant shall have duly paid the said rents and performed his said covenants he may on the determination of the tenancy remove from the said premises the engine and boiler machinery and things then being thereon and erected by him and also all such bricks as shall then have been burnt ready for delivery and deposited on the same premises.

(6) A stipulation that the tenant shall not in any case be entitled to any quarry face or baring goodwill or tenant right.

9. The tenant shall execute and deliver to the landlords a counterpart of the lease to be granted in pursuance of this agreement. The said lease and counterpart shall be prepared by the solicitors of the landlords and the costs of such lease and counterpart and also of this agreement and the duplicate thereof shall be borne and paid by the tenant.

10. This agreement shall not operate as a legal demise of the stone and premises hereinbefore mentioned or give the tenant any legal interest in the premises until the lease thereof shall be executed except so far as to create a strict tenancy at will on the part of the tenant upon the terms aforesaid and to entitle the landlords to the like powers and remedies by distress or otherwise for the recovery of the rents to become due under this agreement as if such lease had been actually granted and such rents reserved thereby.

11. If any difference shall arise between the tenant and any other tenant of the landlords in consequence of this agreement or the said lease or anything to be done under either of them the same shall be finally settled by Mr. —— of &c. or other the [mining] agent for the time being of the landlords and if any difference shall arise between the landlords and the tenant touching this agreement or any clause matter or thing herein contained or the construction hereof or any thing to be done or not to be done under any provision herein contained or any matter in any way connected with this agreement or the operation hereof or the rights duties or liabilities of any party in connection with the premises then and in every such case the said difference shall be referred to two arbitrators one to be chosen by each party to such difference or their umpire to be chosen before the commencement of such arbitration and such arbitration shall in all respects be conducted in accordance with the Arbitration Act, 1889.

[12. This agreement is conditional upon the sanction of the Chancery Division being obtained thereto on or before the —— day of —— next such sanction to be obtained by and at the expense of the landlords.]

As Witness, &c.

The Schedule above referred to.

[*Description of the premises leased.*]

[*Signatures of all parties.*]

MORTGAGES AND PLEDGES.

150.

AGREEMENT to Pay Valuer's Fees (*o*).

To Messrs. —— (Solicitors).

Dear Sirs,

I hereby request you to negotiate a loan of £—— on my property at —— and I undertake to pay a valuer's fee (not exceeding ——) and also your costs according to the authorised scales in any event.

Yours truly,

[*Signature.*]

(*o*) Stamp, 6*d*.

151.

AGREEMENT for Payment of Lender's Costs (*p*).

To Mr. —— [*or his Solicitors*].

DEAR SIR,

I undertake in consideration of your entertaining my propositions for a mortgage on the security of my freehold property at —— in the county of —— to pay all your costs in relation thereto [including valuer's fees (not exceeding £——)] whether or not such mortgage is completed.

Yours truly,

[*Signature of proposed borrower.*]

152.

AGREEMENT for a Mortgage of Real Estate (*q*).

THIS AGREEMENT made the —— day of —— BETWEEN [*lender*] of &c. of the one part and [*borrower*] of &c. of the other part.

WITNESSETH as follows :—

1. Subject to the said [*lender*] being satisfied with a report on the property to be made by an independent valuer appointed by him and subject to his solicitor approving the title of the said [*borrower*] the said [*lender*] wll advance the sum of £—— to the said [*borrower*] by way of legal first mortgage on the freehold [*or* leasehold] property belonging to [*or* about to be purchased by] the said [*borrower*] situate at —— in the county of ——.

2. Interest shall be paid by the said [*borrower*] on the amount advanced on the usual quarter days at the rate of £6 per cent. per annum reducible to £5 per cent. on punctual payment within [seven] days of its due date (*r*).

3. The mortgage deed (*s*) shall be prepared by the solicitor of the said [*lender*] and shall contain such clauses and provisions as are usual and proper having regard to the nature of the property the title of the said [*borrower*] and this agreement. The mortgagor's statutory power of leasing and accepting surrenders (*t*) shall not be exercised except with the consent of the said [*lender*] and the statutory restriction on consolidation of securities (*a*) shall be excluded.

4. The said [*lender*] shall allow the loan to remain for a period of [five] years but the said [*borrower*] shall be at liberty to repay the loan

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(*p*) Stamp. 6*d*.

(*q*) Stamp. 6*d*. This form is suitable for the case where a borrower desires to make financial arrangements before entering into a contract to purchase, but it cannot be specifically enforced, the remedy being in damages for breach of contract.

(*r*) See *Maclaine* v. *Gatty* (1921), 1 A. C. 376 ; 90 L. J. P. C. 73.

(*s*) For precedents of legal mortgages see Encyclopædia of Forms, 2nd. Edn. vol. 10, pp. 117 *et seq.*

(*t*) Law of Property Act, 1925 (15 Geo. 5, c. 20), ss. 99, 100.

(*a*) Ib. s. 93.

in even multiples of £100 on any of the quarterly days fixed for payment of interest without previous notice [*or* as may be agreed] (*b*).

5. The said [*borrower*] shall pay all the costs incurred by the said [*lender*] including his valuer's fee (not exceeding £ ——) and also the costs of the solicitor of the said [*lender*] according to the authorised scales.

6. If for any reason the said mortgage is not proceeded with the costs payable by the said [*borrower*] under the last clause shall not exceed £—— (*c*).

AS WITNESS, &c.

[*Signatures of all parties.*]

153.

AGREEMENT for Equitable Charge on Freeholds subject to a Prior Mortgage (*d*).

To [*lender*] of, &c.

IN CONSIDERATION of your having this day advanced to me the sum of £—— I hereby agree to pay the said sum to you with interest thereon at the rate of £[6] per cent. per annum on the —— day of —— next and if the said sum is not then repaid to pay you interest at the same rate on the principal moneys for the time being due until actual payment by equal half-yearly payments on the —— day of —— and the —— day of —— in every year and I hereby as beneficial owner charge ALL THAT my freehold property situate at —— in the county of —— and known as —— [*or* in the occupation of ——] subject to a legal mortgage [*or* legal charge] dated the —— day of —— and made between [*parties*] for securing to [*first mortgagee, or chargee*] of &c. the sum of £—— and interest at the rate of £—— per cent. per annum with the repayment of such principal moneys and interest And I agree at any time hereafter during the continuance of this security when required in writing so to do to execute a second legal mortgage [*or* charge by way of legal mortgage] of my said property to you subject to the said mortgage [*or* charge] of the —— day of —— if then subsisting in such form and containing such powers and provisions as you shall reasonably require. All expenses of and incidental to such mortgage [*or* charge] to be paid by me.

AS WITNESS, &c.

[*Signature of borrower.*]

(*b*) In the absence of agreement the lender is entitled to either six months' notice or interest for this period in lieu of notice. (See Encyclopædia of Forms, 2nd. Edn. vol. 10, p. 38).

(*c*) An intending mortgagee cannot recover costs if a negotiation for a loan falls through without express stipulation. See *Re* Cowburn, *Ex parte* Firth (1882), 19 Ch. D. 419, and the English and Empire Digest, vol. 35, p. 671.

(*d*) Stamp. 1*s.* for every £100 secured. This Agreement should be registered as a general equitable charge under the Land Charges Act, 1925 (15 Geo. 5, c. 22) s. 10 (1), Class C, (iii.).

154.

AGREEMENT for Equitable Charge on Mortgaged Leaseholds (*d*).

To [*lender*] of, &c.

IN CONSIDERATION of your having discounted for me a promissory note for £—— dated this day payable —— months after the date thereof, and drawn by me and [*co-debtor*] of &c. I the undersigned of &c. hereby charge ALL THOSE the dwelling-house, outbuildings, lands and hereditaments comprised in a lease dated the —— day of —— and made between [*parties*] subject to a legal mortgate [*or* legal charge] dated the —— day of —— and made between [*parties*] for securing £—— and interest with payment to you of the said sum of £—— being the amount of the said promissory note, together with interest thereon after the rate of £—— per cent. per annum. AND I hereby agree in case of default being made in payment of the said sum of £—— when the said promissory note shall arrive at maturity to execute to you a proper and effectual legal mortgage [*or* further legal charge] of the said premises subject only to the said mortgage [*or* legal charge] of the —— day of —— if then subsisting such mortgage [*or* charge] to contain all usual and proper covenants powers and conditions AND I agree at all times during the continuance of this security to punctually pay the rent and perform the covenants by the lessee contained in the said lease AND I also agree to pay all the expenses of and attending such mortgage [*or* further charge] which shall be prepared and the title investigated by your solicitor and settled by counsel if required on behalf of both parties.

Dated this —— day of —— 19—.

[*Signature of borrower.*]

155.

AGREEMENT for Charge on Freeholds by way of Further Security (*e*).

THIS AGREEMENT made the —— day of —— BETWEEN [*debtor*] of &c. of the one part and [*creditor*] of &c. of the other part.

WITNESSETH that the said [*debtor*] being indebted to the said [*creditor*] in the sum of £—— upon a bill of exchange dated the —— day of —— as he hereby admits and the said [*creditor*] having required further security for the same the said [*debtor*] hereby agrees with the said [*creditor*] that he will so soon as the said [*creditor*] so requires and at his own cost in all respects execute such security and do all such acts matters and things as the solicitor or counsel of the said [*creditor*] shall deem necessary or proper for effectually securing the payment on the —— day of ——

(*d*) Stamp. See note on previous page.

(*e*) Stamp. 10*s*. See Revenue Act, 1903, s. 7, but in practice the Commissioners of Inland Revenue require full mortgage duty to be paid (see Alpe, "Stamp Duties," 12th ed. p. 187).

next, of the sum of £—— with interest for the same at the rate of £—— per cent. per annum by way of mortgage of a freehold farm called The —— Farm now in the occupation of —— [*tenant*] to which the debtor is beneficially entitled for an estate in fee simple free from incumbrances by virtue of the will of his father who died on the —— day of —— last.

AND that in the meantime the said farm shall be deemed to be charged with the payment of the said sum of £—— and interest at the rate aforesaid as effectually to all intents and purposes as if such mortgage had now been duly executed and the said [*debtor*] irrevocably appoints the said [*creditor*] his attorney to execute and perfect such mortgage as aforesaid.

IN WITNESS, &c.

[*Signature and seal of the debtor.*]

156.

AGREEMENT for Charge on Leaseholds of Debt already due (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*debtor*] of &c. of the one part and [*lender*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*debtor*] who is indebted to the said [*lender*] in the sum of £—— upon a bond dated the —— day of —— [*or* for goods sold and delivered *or as the case may be*] will as soon as conveniently may be after the execution hereof and at his own expense in all things execute and deliver to the said [*lender*] for securing payment of the said sum and interest thereon at the rate of £—— per cent. per annum an effectual legal mortgage [*or* legal charge] of ALL THOSE [five] messuages and hereditaments situate at —— known as Nos. —— Terrace comprised in a lease dated the —— day of —— and made between [*parties*] and in the meantime until such mortgage shall have been executed the said property shall stand and be charged with the payment of the said sum of £—— and interest thereon as fully and effectually as if such mortgage [*or* legal charge] had now been executed.

[1A. *If no bond has been executed* The said [*debtor*] hereby covenants with the said [*lendor*] to pay to him on the —— day of —— next the said sum of £—— with interest at the rate aforesaid and if the said sum shall not be then paid to pay him interest at the same rate on the —— day of —— and the —— day of —— in every year on the principal moneys for the time being unpaid until repayment.]

2. During the continuance of this security the said [*debtor*] will punctually pay the rent and perform the lessee's covenants contained in the said lease and will produce all policies and receipts for premiums in respect of the insurance of the said hereditaments against loss or damage by fire to the said [*lender*] on demand.

(*f*) Stamp. See note (*e*), p. 288, *ante*. If no bond has been given mortgage duty at 2*s*. 6*d*. per cent. is clearly payable.

3. THE SAID [*lender*] will allow the said principal sum to remain on the security of the said mortgage for the term of —— years to be computed from the date thereof provided the interest thenceforth to accrue due thereon shall be duly paid according to the said bond [*or* this agreement] and the provisions of clause 2 hereof shall be duly complied with.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

157.

MEMORANDUM accompanying deposit of Title Deeds (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*borrower*] of &c. of the one part and [*lender*] of &c. of the other part.

WHEREAS the said [*lender*] at the request of the said [*borrower*] has agreed to advance him the sum of £—— on having the repayment thereof secured as hereinafter mentioned.

AND WHEREAS the said [*borrower*] has delivered to the said [*lender*] his promissory note for £—— payable with interest at the rate of £—— per cent. per annum on demand and has also deposited with him the several title-deeds and documents mentioned in the schedule hereunder written relating to a freehold dwelling-house No. — situate in —— Street in —— and now in the occupation of [*tenant*].

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of the sum of £—— to the said [*borrower*] paid by the said [*lender*] upon the execution hereof the receipt whereof the said [*borrower*] hereby acknowledges the said title-deeds and documents and the property therein described shall be and remain in the hands of the said [*lender*] charged with and as a security for repayment of the said sum of £—— together with interest thereon at the rate aforesaid on the —— day of —— next.

2. In default of payment of the said sum of £—— and interest accordingly the said [*borrower*] will whenever required in writing at his own expense in all respects execute and deliver to the said [*lender*] a legal mortgage by way of demise of the property described in the said deeds and documents such mortgage to contain all such covenants, powers and conditions as are usually inserted in mortgages of the like or a similar nature and as shall be required by the said [*lender*] (including a covenant for payment of the said principal sum and interest at the rate of £—— per cent. per annum on the —— day of —— and the —— day of —— in every year on the principal moneys for the time being unpaid).

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Dates and particulars of Deeds deposited.*]

[*Signature of borrower.*]

(*g*) Stamp. 1*s.* per cent. as an equitable mortgage. As to mortgages by deposit of Title Deeds, see the English and Empire Digest, Vol. 35, pp. 254 *et seq.*

158.

MEMORANDUM of Deposit of Deeds. Short Form (*h*).

To Mr. [*lender*], of &c.,

I HEREBY acknowledge that I have deposited with you the Deeds specified in the schedule hereto relating to my freehold property at —— as security for the sum of £—— now advanced by you to me together with interest thereon at £—— per cent. per annum from the date hereof.

Dated, &c.

THE SCHEDULE.

[*Signature.*]

159.

MEMORANDUM accompanying Deposit of Land Certificate to Registered Freeholds (*i*).

I the undersigned [*borrower*] of &c. have this day deposited with [*lender*] of &c. the land certificate relating to the freehold hereditaments known as —— of which I am registered proprietor with a possessory [*or* absolute] title under title No. —— District —— Parish —— by way of security for the sum of £—— which he has this day paid to me with interest thereon at the rate of £—— per cent. per annum and I agree to pay to him on the —— day of —— next the said sum of £—— with interest at the rate aforesaid and in default thereof to execute and deliver to him at my own expense in all respects a valid charge of all the property comprised in the said title for securing payment to him of the said principal sum and payment of interest at the said rate on the —— day of —— and the —— day of —— in every year and to do all things requisite for the purpose of enabling the said [*lender*] to be registered as proprietor of such charge as a first charge thereon.

Dated this —— day of ——

[*Signature of borrower.*]

160.

AGREEMENT for an Equitable Charge. Short Form (*k*).

To Mr. ——,

IN consideration of £—— now advanced by you (the receipt of which I hereby acknowledge) I hereby as beneficial owner charge all that my freehold house and land situate at —— and known as —— with the

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(*h*) Stamp. 1*s.* per cent.

(*i*) Stamp. 1*s.* per cent. The lender will protect his security by lodging a notice at the Land Registry (see L. R. Rules, 1925, No. 239; and Land Registration Act, 1925 (15 Geo. 5, c. 21), s. 54). No special words are necessary to create an equitable charge; see *Cradock* v. *Scottish Provident Institution* (1894), 70 L. T. 718, C. A.

(*k*) Stamp. 1*s.* per cent. If not secured by a deposit of documents relating to the legal estate affected the charge should be registered as a general equitable charge under the Land Charges Act, 1925, s. 10 (1), Class C. (iii).

repayment of the said sum together with interest thereon at the rate of £—— per cent. per annum.

Dated, &c.

[*Signature of borrower.*]

161.

AGREEMENT for Loan on Bill of Exchange, and Deposit of a Mortgage (*l*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 157, p. 290, *supra*].

WHEREAS the said [*borrower*] is entitled to the benefit of a mortgage dated the —— day of —— and made between [*parties*] for securing the sum of £—— and interest on an hotel known as The —— Hotel, situate at &c.

AND WHEREAS the said [*borrower*] has applied to the said [*lender*] to lend him the sum of £—— on the security of a bill of exchange to be drawn by the said [*lender*] and accepted by the said [*borrower*] for the sum of £—— and interest thereon.

AND WHEREAS the said [*borrower*] has upon the execution hereof delivered to and deposited with the said [*lender*] the said mortgage and the title-deeds and documents enumerated in the schedule hereunder written together with a bill of exchange bearing even date herewith and drawn and accepted as aforesaid for securing the repayment of the said sum of £—— and interest at the rate of —— per cent. per annum on the —— day of —— next.

NOW THESE PRESENTS WITNESS that in consideration of £—— now paid to the said [*borrower*] by the said [*lender*] the receipt whereof is hereby acknowledged the said [*borrower*] agrees with the said [*lender*] that in the event of the said bill of exchange not being duly paid at its maturity the said [*borrower*] will at his own expense in all things execute and deliver to the said [*lender*] a valid and effectual submortgage of the said mortgage in such form as the said [*lender*] shall require for securing the said sum of £—— with interest thereon payable by half-yearly instalments on the —— day of —— and the —— day of —— in every year after the rate of £—— per cent. per annum, until repayment. And that in the meantime the estate and interest of the said [*borrower*] in the debt and hereditaments comprised in the said mortgage shall be charged with the repayment of the said sum of £—— and interest in favour of the said [*lender*].

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Dates and particulars of Documents deposited.*]

[*Signature and seal of borrower.*]

(*l*) Stamp. 2*s* 6*d*. per cent. of the loan.

162.

AGREEMENT for Loan of Proceeds of Stock sold, the Stock to be replaced and Interest to be equivalent to the Dividend (*m*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 157, p. 290, *supra*].

WHEREAS the said [*lender*] has at the request of the said [*borrower*] who is the son of the said [*lender*] consented to lend him the sum of £—— being the proceeds of a sum of £—— two and a half per cent. consolidated stock (*n*) after deducting the expenses attending the sale thereof.

NOW THESE PRESENTS WITNESS that in consideration of the said sum of £—— paid to him upon the execution hereof (the receipt whereof he hereby acknowledges) the said [*borrower*] hereby agrees with the said [*lender*] that he will on or before the —— day of —— next [*or* at the expiration of —— weeks after written notice in that behalf shall have been served on him] invest such a sum in the purchase of the like consolidated stock in the name of the said [*lender*] or as she shall direct as shall be equivalent in amount to the stock so sold as aforesaid AND ALSO will in the meantime and until such investment pay or cause to be paid to the said [*lender*] on each day appointed for the payment of interest on consolidated stock interest on the said sum of £—— equivalent to the interest on such day which would have been payable on the first-mentioned stock if such stock had not been so sold out as aforesaid all proper deductions being made for income tax.

IN WITNESS, &c.

[*Signature and seal of borrower.*]

163.

AGREEMENT for Loan on the Security of a Building Agreement and Bills of Exchange and Policy (*o*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 157, p. 290, *supra*].

WHEREAS under or by virtue of an agreement dated the —— day of —— and made between [*parties*] the said [*borrower*] will become entitled on duly complying with the terms of the said agreement to a lease for a term of —— years subject to an annual ground-rent of £—— of a piece or close of land situate at &c. and more particularly described in the said

(*m*) Stamp. *Ad valorem* mortgage duty on the value of the stock (Stamp Act, 1891, s. 87).

(*n*) See the National Debt (Conversion) Act, 1888 (51 Vict. c. 2); the National Debt Redemption Act, 1889, and the National Debt Act, 1889 (52 Vict. cc. 4, 6).

(*o*) Stamp. See note (*e*), p. 288, *ante*.

agreement on which land the said [*borrower*] is about to build [*or* has now in course of erection] —— semi-detached villas each of the intended value of £—— and of the annual value of £——

AND WHEREAS, for the purpose of completing such buildings the said [*borrower*] has requested the said [*lender*] to lend him the sum of £——

AND WHEREAS the said [*borrower*] has accepted and delivered to the said [*lender*] three bills of exchange each payable at —— months date and drawn by the said [*lender*] for £—— making together the said sum of £—— with interest thereon at the rate of £[5] per cent. per annum and has deposited with the said [*lender*] the said agreement for a lease

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of £—— this day paid by the said [*lender*] to the said [*borrower*] (the receipt whereof is hereby acknowledged) the said [*borrower*] hereby charges all his estate and interest of and in the hereditaments comprised in the said building agreement with the repayment to the said [*lender*] of all moneys payable under the said bills of exchange or this agreement.

2. The said [*borrower*] will forthwith effect with some life assurance company [in London] to be approved by the said [*lender*] a policy of assurance on his own life in the sum of £—— and will duly pay the premiums to become due thereon and keep such policy in full force during the continuance of the said loan.

3. The said [*borrower*] will deliver to and deposit with the said [*lender*] the said lease when granted and the said policy when effected by way of further security for the repayment of all moneys payable under the said bills of exchange or this agreement and all expenses whatsoever incurred under or by virtue of the same.

4. In case the said bills of exchange shall not be duly and punctually discharged the said [*borrower*] will at his own expense when thereunto requested in writing execute and deliver an effectual legal mortgage of all his estate and interest, benefit and advantages whatsoever to be had or derived from the said building agreement lease and policy to the said [*lender*] for better securing the payment of the said sum of £—— and interest and all costs and expenses whatsoever incurred by virtue hereof such mortgage to be in such form as the said [*lender*] shall require.

5. The said [*borrower*] will duly and punctually carry out and perform all stipulations on his part contained in the said building agreement in an efficient manner and pay all sums payable by him thereunder for rent or otherwise.

IN WITNESS, &c.

[*Signature and seal of borrower.*]

164.

AGREEMENT for Mortgage of Building Agreement (*p*).

AN AGREEMENT made the —— day of —— BETWEEN [*builder*] of &c. (hereinafter called the borrower) of the one part and [*mortgagee*] of &c. (hereinafter called the lender) of the other part.

WHEREAS by a building agreement dated the —— day of —— and made between [*parties*] the borrower agreed to erect —— private houses on land situate at —— as therein mentioned and will be entitled to leases of the said houses and premises when erected for the term of —— years at the rents therein mentioned

AND WHEREAS the lender has been requested by the borrower to make advances from time to time to the borrower to enable him to complete and finish the said houses and premises in accordance with the said building agreement.

NOW IT IS HEREBY AGREED as follows :—

1. The lender will as the works proceed make advances in cash to the borrower to be applied by him in erecting and completing the said houses pursuant to the said building agreement or any modification thereof agreed between the said [*building owner*] and the borrower to the amount of £[400] in respect of each of the said —— houses.

2. The total advances to be made by the lender hereunder shall not at any one time exceed the aggregate sum of £[1200]. Such advances shall be made at the times and in manner specified in the Schedule hereto. The lender shall not be bound to make any advance in respect of any house until his surveyor shall have certified in writing that such house has been erected to his satisfaction to the stage mentioned in the Schedule hereto as justifying such advance and the borrower up to the date when such advance is required shall have punctually paid the interest payable under clause 3 hereof and shall have duly performed and observed all stipulations on his part contained in the said building agreement and this agreement.

3. As from the date of the first advance the borrower shall pay to the lender interest at the rate of 5 per cent. per annum on the said aggregate sum of £[1200] such interest to be payable quarterly, the first such payment to be made three calendar months after the date of such first advance and the borrower shall repay each advance within six calendar months after the date thereof. The whole of the said advances shall be repaid before the —— day of ——.

4. The borrower having this day deposited the said building agreement with the lender as security for repayment of the said advances shall also deposit with the lender each lease which shall be granted pursuant to the said building agreement and such deposit shall continue until all the advances shall be repaid. In the event of any house being sold or permanently mortgaged the advances made in respect of such house shall be repaid out of the purchase price or mortgage money as the case may be.

(*p*) Stamp. 2*s*. 6*d*. per cent. of the loan.

5. The borrower will duly finish and complete the said —— houses in accordance with the said building agreement or any modification thereof agreed between the said [*building owner*] and the borrower on or before the —— day of —— and will pay the rent payable under such agreement and produce receipts to the lender on demand.

6. The borrower shall insure the buildings to be erected in accordance with the conditions of the said building agreement and will produce all receipts for the payment of premiums and other payments requisite for the purpose to the lender on demand.

7. The borrower shall procure all plans and elevations in respect of the said buildings to be approved and signed by the said [*building owner*] and shall deposit the same with the lender's surveyor and shall if required satisfy him that the formal approval of the —— Urban District Council to the same has also been obtained.

8. The borrower shall at his own expense procure the said [*building owner*] or other the freeholder for the time being of the said land on which the said houses are to be erected to grant a separate lease of each of the said houses when and as soon as such lease can be required in accordance with the said building agreement either in the name of the lender [or his nominee] or of the borrower as the lender shall require.

9. The borrower will at the request of the lender assign to him the said building agreement by way of security and if any lease shall be granted to the borrower will at the like request execute a legal mortgage of the same to the lender to secure the sums advanced in respect of the house comprised in such lease.

10. If the borrower shall (1) make default in payment of any interest under this agreement for 21 days after the due date for payment thereof (2) commit any breach of any stipulation on his part herein contained (3) become bankrupt or enter into any composition or arrangement with his creditors (4) suffer any execution or legal process to be issued or levied against him by virtue whereof his interest in the said building agreement or the benefit thereof shall be liable to be seized or disposed of (5) make default in continuously and effectually erecting and completing the buildings and work under the said building agreement for 14 days after notice in writing under the hand of the lender has been sent to the borrower at his last known address by registered post requiring him to proceed with the said work then and in any such case it shall be lawful for the lender if he so desire to enter into and take possession of the land comprised in the said building agreement and complete any houses or buildings thereon which may be unfinished in such manner as he may think fit and add the money expended in so doing with interest thereon after the rate aforesaid computed from the time of expending the same to the other principal moneys and interest hereby secured so as to be charged on all the premises comprised in the said building agreement.

[11. The lender shall have the option in the case of each of the said houses of procuring a permanent mortgage (if required) by the borrower in which case the borrower shall pay to the lender his costs for negotiating

and completing the same according to the ordinary scale of charges fixed by the order under the Solicitors' Remuneration Act 1881 where a solicitor is concerned for both mortgagor or mortgagee (*q*)].

[12. If the borrower shall sell lease or otherwise deal with the said houses or any of them he shall employ the lender as his solicitor in the transaction and shall in respect of every such sale lease or other dealing pay to the lender a fixed sum of [5] guineas in addition to any disbursements (*q*).]

13. The borrower shall pay all fees due to the lender's surveyor for inspecting the said houses and for certifying as to the advances to be made hereunder and also for any plans prepared by him in respect of any such house.

14. The borrower shall pay the lender £—— (in addition to the stamp duty) for the costs of this agreement.

15. The expressions "the borrower" and "the lender" shall include the persons deriving title under them respectively unless the context requires a different construction and the expression the lender's surveyor shall mean —— of —— or other the surveyor for the time being appointed [in writing] by the lender.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

1. When all trenches are excavated and concreted footings in damp course done and walls up to the first floor including bays all round all main drains laid up to the front manhole and manholes built and all drains passed by the local council and first-floor joists plates and trimmers fixed, £——.

2. When the walls all round are built up to the eaves all string courses and other ornamental work fixed and all plates and ceiling joists on, £——.

3. When the whole of the brickwork is completed roof rafters and all other timbers on and fixed and the whole building roofed in and all ridging done also gutter boards and guttering fixed chimney pots set and stacks pointed and the whole of the roofs watertight, £——

4. When all surface excavating and surface concreting is done sleeper walls up floors laid throughout stairs up lathing completed joints and sash frames fixed gas and water pipes and bell tubing in sinks and coppers up all solid external door frames fixed gulleys in and all branch drains done, £——.

5. When plumbing work is done including fixture of cisterns bath and connections thereto and wastes therefrom all sills and thresholds fixed roof fillets done bell wires run all plastering finished all rain-water pipes heads bends and shoes fixed and whole of pointing and rough cast complete chimney pieces stoves and kitchen range fixed and front and back fences up and hot water work done, £——.

(*q*) These clauses are of course only applicable where the lender is a solicitor.

6. When all sashes casements &c. are glazed and hung all architrave moulding handrails and balusters fixed doors hung and glazed cupboards and dressers fixed and the whole of the woodwork finished and painted throughout porches painted and all asphalte pavings at back complete front and back gardens formed and paths finished all locks fitted drains connected with main sewer and manhole covers and fresh air inlet fixed and all charges paid to council for connection with sewer, £——.

7. When all blinds are fixed sanitary dustbins provided water laid on walls papered throughout all floors and windows cleaned and the whole premises completely ready for occupation and passed by the local authority for occupation, £——.

[*Signatures and seals of both parties.*]

165.

AGREEMENT for deposit of Lease and Life Policy as collateral Security to a Mortgage (*r*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*mortgagor*] of &c. of the one part and [*mortgagee*] of &c. of the other part.

WHEREAS since the date of a mortgage dated the —— day of —— and made between the persons who are parties hereto and in the same order (to which deed this agreement is supplemental) the said [*mortgagor*] has obtained a lease dated the —— day of —— of certain hereditaments and premises situate at —— and therein particularly described for a term of —— years from the —— day of —— last subject to the covenants and conditions therein contained and at the annual rent of £—— and has also in pursuance of a covenant in the said mortgage contained effected a policy of assurance with The —— Life Assurance Society on his own life in the sum of £—— dated the —— day of —— and numbered —— under an annual premium of £——

AND WHEREAS the said [*mortgagor*] has at the request of the said [*mortgagee*] this day deposited the said lease and policy of assurance with the said [*mortgagee*] as collateral security.

NOW IT IS HEREBY AGREED as follows :—

1. The said lease and policy of assurance as well as the lands and premises demised by the said lease and the moneys secured by the said policy shall be and remain as a collateral security to the said [*mortgagee*] for better securing the repayment of the principal moneys and interest secured by the said mortgage.

2. The said [*mortgagor*] will at his own expense at any time hereafter when requested in writing by the said [*mortgagee*] duly execute and deliver to him a legal mortgage of the premises so granted by the said lease as aforesaid and also of the said policy and all his interest therein and to be derived therefrom by way of collateral security as aforesaid

(*r*) Stamp. 6*d*. per cent. not exceeding 10*s*. in all (Revenue Act, 1903, s. 7).

such collateral security to contain or be made subject to all such covenants powers conditions clauses and agreements as are inserted in the hereinbefore mentioned mortgage.

IN WITNESS, &c.

[*Signature of borrower.*]

166.

AGREEMENT to secure Loan and previous Advance repayable by instalments by Bond and Life Policy (*s*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 157, p. 290, *supra*].

WHEREAS the said [*borrower*] is indebted to the said [*lender*] in the sum of £—— and having occasion for the further sum of £—— has requested the said [*lender*] to lend him the same which he has agreed to do on having the security hereinafter mentioned for both the said sums which are to be hereinafter deemed and treated as one aggregate sum of £——

AND WHEREAS by an agreement in writing dated the —— day of —— the said [*borrower*] let to [*tenant*] several pieces of [arable] land forming part of a leasehold estate called —— situate at —— containing about —— acres for a term of —— years which will expire at Michælmas 19— at the yearly rent of £——

AND WHEREAS, for the purpose of better securing the repayment of the said sum of £—— and interest the said [*borrower*] has authorised the said [*tenant*] to pay until further notice the rent payable under the said agreement to the said [*lender*] on his sole receipt.

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of the said sum of £—— now due from the said [*borrower*] to the said [*lender*] as aforesaid and of the further sum of £—— paid by the said [*lender*] to the said [*borrower*] upon the execution hereof (making together the said sum of £——) the receipt whereof is hereby acknowledged the said [*borrower*] agrees with the said [*lender*] that he will on or before the —— day of —— next execute and deliver to the said [*lender*] his bond or obligation in writing with one surety to be approved by the said [*lender*] for securing the said sum of £—— repayable by [three] instalments namely £—— part thereof with interest on the whole sum at the rate of £—— per cent. per annum on the —— day of —— next the further sum of £—— with interest on the remaining sum at the rate aforesaid on the —— day of —— next and the remaining sum of £—— with interest thereon at the rate aforesaid on the —— day of —— 19— such payments to be clear of all deductions whatsoever except income tax in respect of interest payable.

(*s*) Stamp. *Ad valorem* mortgage duty (Stamp Act, 1891, s. 86 (*e*)) on the further advance and also on the existing debt unless some previous mortgage therefor is duly stamped in which case collateral mortgage duty is payable.

2. The said [*borrower*] will, on or before the —— day of —— next effect a policy of assurance on his own life in the sum of £—— with The —— Life Assurance Society and deliver such policy when effected to the said [*lender*] and effectually assign the same to him by way of mortgage for better securing the repayment of the said sum of £—— and interest as aforesaid.

3. The said [*borrower*] will pay all such premiums and sums of money as may be necessary for keeping the said policy of assurance in full force so long as any money shall remain due from him to the said [*lender*] and all costs and expenses which may be incurred by him by virtue hereof.

4. The said [*borrower*] will not revoke or alter the authority so given to the said [*tenant*] as aforesaid so long as any sum shall remain due from him to the said [*lender*] by virtue hereof.

5. The said [*borrower*] hereby appoints the said [*lender*] his attorney in his name to take all proceedings necessary or proper to obtain or enforce payment of the rent payable under the said agreement and the due performance of the covenants by the said [*tenant*] therein contained.

6. The said [*lender*] in consideration of the agreements on the part of the said [*borrower*] hereinbefore contained and of the due performance thereof will accept payment of the said sum of £—— by the instalments hereinbefore mentioned and on the several days hereinbefore appointed for payment thereof and if the same be duly paid will on payment of the last of such instalments with all interest due to the date thereof and all costs and expenses incurred and which may be incurred by virtue hereof vacate the said authority and deliver up the said bond to the said [*borrower*] and also at his expense assign the said policy to him or as he shall direct.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

167.

AGREEMENT for Loan on Security of Fully Paid Shares in a Limited Company (*t*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 164, p. 295, *supra*].

WHEREAS the borrower has deposited with the lender certificates for [200] ordinary [*or* preference] shares of £[1] each in the —— Company Limited together with a duly executed instrument of transfer thereof

AND WHEREAS the lender has advanced to the borrower a sum of £—— and it was a term of such deposit and advance that the parties hereto should enter into this agreement

(*t*) Stamp. Equitable mortgage duty at 1*s.* per cent. As to the execution of a transfer of shares in blank, see *Powell* v. *London and Provincial Bank*, [1893] 2 Ch. 555; *Re Seymour, Fielding* v. *Seymour*, [1913] 1 Ch. 475; and the Encyclopædia of Forms, 2nd Edn., Vol. 10, p. 422.

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of the said sum of £—— so paid to the borrower by the lender as aforesaid (the receipt whereof the borrower hereby acknowledges) the borrower will pay to the lender the said sum of £—— with interest thereon at the rate of £—— per cent. per annum on the —— day of —— next and if the said sum shall not be then paid will pay the lender interest on so much thereof as shall for the time being remain due at the rate aforesaid by equal half yearly payments on the —— day of —— and the —— day of —— in every year.

2. The said shares shall be held as security for the due performance by the borrower of his obligations under clause 1 hereof. Unless and until the borrower shall make default in payment of any half-yearly instalment of interest on the day hereinbefore appointed for payment of the same or make default for one month in payment of the said sum of £—— after written notice to pay the same or become insolvent the said shares shall remain registered in the books of the said company in the name of the borrower who shall be entitled to vote and give receipts for dividends [and bonuses] which may be paid in respect of the same.

3. In any of the events mentioned in clause 2 hereof the lender shall have full power to procure the registration of his own name as the holder of the said shares and to sell the same in such manner and at such prices as he thinks fit without any liability for involuntary loss.

4. If and when the borrower shall have duly complied with his obligations under clause 1 hereof the lender shall deliver up to him the said transfer and certificates if the lender has not been registered as holder of the said shares and if the lender has been so registered he shall retransfer the said shares to the borrower but in each case at the borrower's expense.

IN WITNESS, &c.

[*Signatures of both parties.*]

168.

AGREEMENT for Mortgage of expectant Interest in Personal Estate (*a*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*borrower*] of &c. married woman (*b*) (hereinafter called the borrower) of the one part and [*lender*] of &c. (hereinafter called the lender) of the other part.

(*a*) Stamp. *Ad valorem* mortgage duty. A *spes successionis* is not an estate or interest, present or future, vested or contingent, in property (*Re Parsons, Stockley* v. *Parsons* (1890), 45 Ch. D. 51, 56; *re Green, Green* v. *Meinall*, [1911] 2 Ch. 275; *re Mudge*, [1914] 1 Ch. 115), but an assignment for valuable consideration of such an expectancy operates in equity as a contract to assign if and when the property vests in interest, and on the happening of that event the contract to assign becomes a complete assignment of the property (*Tailby* v. *Official Receiver* (1888), 13 App. Cas. 523, 543). A security of this kind, however, may possibly be destroyed if the borrower becomes bankrupt and obtains a discharge under the Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 28 (2), before the property vests in interest. The test appears to

For note (*b*) see next page.

WHEREAS if the borrower is living at the death of [*borrower's mother*] of &c. widow who is now aged —— years and upwards and for many years past has been of unsound mind the borrower who is one of two children of the said [*borrower's mother*] will become entitled as one of her next of kin to one moiety of her personal estate.

AND WHEREAS the borrower has requested the lender to advance to her a sum of £[100] which the lender has agreed to do upon the terms hereinafter contained.

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of £—— this day paid to the borrower by the lender (the receipt whereof the borrower hereby acknowledges) the borrower will pay to the lender on the —— day of —— next the said sum of £—— with interest thereon at the rate of £—— per cent. per annum and if the said sum shall not be paid on that day will pay to the lender interest at the rate aforesaid on so much thereof as shall for the time being remain unpaid by equal half yearly payments of £—— each on the —— day of —— and the —— day of —— in every year.

2. For the consideration aforesaid the borrower will at her own cost if and when requested by the lender so to do assign to him all the right title benefit and interest to which the borrower is or may be or become entitled of and in the personal estate and effects of the said [*borrower's mother*] on her decease either as next of kin or one of the next of kin of the said [*borrower's mother*] or under or by virtue of any testamentary instrument which she may have executed or may hereafter execute or otherwise such assignment to be by way of security for the payment of the said sum of £—— and interest pursuant to clause 1 hereof, and to be in such form as the lender may require.

3. The borrower will forthwith effect in the name of the [*lender*] a policy of insurance with the —— Assurance Society for £—— payable in the event of the borrower predeceasing the said [*borrower's mother*] such policy to be held by the lender as further security for the repayment of the principal moneys and interest mentioned in clause 1 hereof.

[4. *If a policy is not effected at a single premium* At all times during the continuance of this security the borrower will duly and punctually pay all premiums and other moneys necessary to keep the said policy on foot. If she shall make default in such payments the lender may pay the same and all moneys so paid by the lender shall be recoverable from the

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be whether the assignment (construed as a contract to assign) gives the mortgagee a mere right *in personam* to have specific performance thereof or something beyond this "in the nature of an estate or interest" in the subject matter of the assignment. In the former case, the statutory discharge of the borrower will release him from liability under the assignment (*Collyer* v. *Isaacs* (1881), 19 Ch. D. 342, 352); in the latter case, the security is unaffected by such discharge (*re Lind, Industrials Finance Syndicate* v. *Lind*, [1915] 2 Ch. 345; and see *Lyde* v. *Minn* (1833), 1 M. & K. 683; *Robinson* v. *Ommanney* (1883), 23 Ch. D. 285; *Re Reis, ex parte Clough*, [1904] 2 K. B. 769; [1905] A. C. 442).

(*b*) A married woman who carries on a trade or business, whether separately from her husband or not, is subject to the bankruptcy laws as if she were a *feme sole* (Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 125). See also *In re Debtor* (No. 3 of 1926), [1927] 1 Ch. 97, C. A.

borrower or may at the lender's option be added to the principal moneys hereby secured and bear interest accordingly.]

5. The borrower will within [24] hours after the death of the said [*borrower's mother*] shall have come to her knowledge give written notice thereof to the lender at his last known place of abode (*c*) and will also if required by the lender use her best endeavours to obtain for herself a grant of letters of administration to the estate of the said [*borrower's mother*].

IN WITNESS, &c.

[*Signature and seal of borrower.*]

169.

AGREEMENT to give a Bill of Sale (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*borrower*] of &c. (hereinafter called the borrower) of the one part and [*lender*] of &c. (hereinafter called the lender) of the other part.

WHEREAS the borrower is indebted to divers persons in sums amounting in the aggregate to £——

AND WHEREAS the borrower is absolutely entitled to the chattels specified in the Schedule hereto,

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(*c*) Securities on personal estate rank for priority according to the respective dates on which notice thereof was given to the persons legally entitled to administer the mortgaged funds (*Ryall* v. *Rowles* (1749), 1 Ves. Sen. 348; *Dearle* v. *Hall* (1823), 3 Russ. 1, 23; and see Halsbury's Laws of England, title "Choses in Action," vol. 4, pp. 379 *et seq.*, and Law of Property Act, 1925, ss. 137, 138). It is therefore important for the lender to ascertain at the earliest possible interval after the death to whom he will have to give notice. Notice given to a person before the time when he becomes legally entitled to administer the fund is ineffectual (*Addison* v. *Cox* (1872), 8 Ch. App. 76; *Re Dallas*, [1904] 2 Ch. 385; but see *Ipswich Permanent Money Club* v. *Arthy*, [1920] 2 Ch. 257). A restriction on constructive notice is contained in the Trustee Act, 1925, s. 28.

(*d*) Stamp. *Ad valorem* mortgage duty at 2*s.* 6*d.* per cent. as a covenant to secure payment of money. This form is occasionally useful in a case when the owner of furniture is temporarily embarrassed and some relative or friend is willing to advance money for the payment of the debtor's liabilities, and to take such security as the debtor can offer. Under the Bills of Sale Act (1878) Amendment Act, 1882 (45 & 46 Vict. c. 43), s. 8, a bill of sale must, within seven clear days after execution, be registered in accordance with the Bills of Sale Act, 1878 (41 & 42 Vict. c. 31), s. 10; and must be re-registered every five years (*ibid.* s. 11). The expression "bill of sale" includes any agreement which confers a right in equity to a charge on personal chattels (*ibid.* s. 4), even if the charge is contingent only (*Shears and Sons Ltd.* v. *Jones*, [1922] 2 Ch. 802). As to a parol agreement to give a bill of sale, see *ex parte Hauxwell, re Hemingway* (1883), 23 Ch. D. 626. The bill of sale may be executed by the grantee as attorney of the debtor (*Furnivall* v. *Hudson*, [1893] 1 Ch. 335), and an existing debt may be good consideration for the bill of sale (*Credit Co.* v. *Pott* (1880), 6 Q. B. D. 295). In the event of the debtor becoming further involved or committing a breach of any covenant contained in the form, the lender will tender a bill of sale in the statutory form (for which see Encyclopædia of Forms, 2nd Edn., Vol. 10, p. 550), and if the debtor refuses to execute, will himself execute as attorney of the debtor and register the same. The validity of an agreement in the above form was established as between the debtor and creditor in *Furnivall* v. *Hudson*, *supra*, but it may be rendered ineffective in bankruptcy in some circumstances under the doctrine of reputed ownership, and in any case cannot be regarded as affording a satisfactory security. Registration of an actual bill of sale, however, is often fatal to the debtor's credit.

AND WHEREAS the borrower has requested the lender to advance to him the sum of £—— for the purpose of discharging his said indebtedness which the lender has agreed to do upon having repayment of the same with interest thereon secured in manner hereinafter mentioned.

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of the sum of £—— this day paid by the lender to the borrower (the receipt whereof the borrower hereby acknowledges) the borrower hereby covenants with the lender to pay to him on the —— day of —— next the said sum of £—— with interest thereon from the date hereof at the rate of £[6] per cent. per annum and if the said sum shall not be paid on that date then so long as the said sum or any part thereof shall remain owing to pay to the lender interest at the rate aforesaid on the said sum or such part thereof as shall for the time being remain unpaid by equal quarterly payments on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— in every year.

2. The borrower hereby covenants with the lender that he will forthwith liquidate his said indebtedness and will produce to the lender properly stamped receipts from his said creditors as evidence of such liquidation within —— weeks of the date hereof (*e*).

3. The borrower hereby covenants with the lender that he will at any time hereafter at the lender's request, but at his own cost, execute, register and otherwise perfect a valid and effectual bill of sale comprising the whole of the chattels specified in the Schedule hereto such bill of sale to be in such form as the lender shall reasonably require, and will do all other acts necessary or proper to give the lender a valid and enforceable security on the said chattels.

4. The borrower hereby irrevocably appoints the lender, to be his attorney in his behalf and in his name to execute, deliver and perfect such bill of sale and do such acts as are mentioned in clause 3 hereof in the event of the borrower refusing or neglecting within [five] days after notice requiring him so to do to execute, deliver and perfect such bill of sale or do such acts as aforesaid.

5. So long as any part of the moneys so advanced as aforesaid shall remain owing to the lender the borrower will not without the consent of the lender remove any of the chattels specified in the Schedule hereto from the house No. —— in which they are now placed and in the event of any of the said chattels being worn out or destroyed will substitute for the same articles of a like kind and an equivalent value and the bill of sale to be executed in pursuance of clause 3 or 4 hereof shall comprise any articles so substituted.

6. The lender shall be entitled at all times to enter the said house and view the condition of the said chattels and to give notice of any destruction want of repair or dilapidation and the borrower shall within —— days of

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(*e*) If preferred, the lender can himself liquidate the creditor's claims, in which case the agreement will require slight variations by the insertion of a clause empowering the lender to liquidate the claims.

the receipt of such notice replace repair or make good the dilapidation of any chattels in respect whereof such notice is so given.

7. The borrower shall at all times until the moneys for the time being owing on the security shall have been repaid keep the chattels for the time being subject to these presents in good condition and insured against loss or injury by fire or burglary in the sum of £—— at the least and shall produce to the lender on demand all policies of insurance and the receipts for the premium in respect of the current year, and shall out of any moneys received in respect of such insurance replace or renew any chattels destroyed injured or lost.

AS WITNESS, &c.

[THE SCHEDULE ABOVE REFERRED TO.]

[*Description of chattels.*]

[*Signatures and seals of the borrower and the lender.*]

170.

AGREEMENT for Loan by Instalments and for Bill of Sale when all the Advances have been made (*f*).

THIS AGREEMENT made, the —— day of —— BETWEEN [*parties as in Form* 157, p. 290, *supra*].

WHEREAS the said [*lender*] has, at the request of the said [*borrower*], agreed to lend him the sum of £——, payable by instalments, on the terms hereinafter contained.

NOW THESE PRESENTS WITNESS as follows:—

1. In consideration of the agreement on the part of the said [*borrower*] hereinafter contained, the said [*lender*] hereby agrees to pay to the said [*borrower*] the sum of £—— as follows, namely, the sum of £—— part thereof, upon the execution hereof, the further sum of £—— other part thereof, on the —— day of —— next, and the further sum of £—— being the residue of the said sum of £—— on the —— day of ——.

2. In consideration of the agreement on the part of the said [*lender*] hereinbefore contained, the said [*borrower*] will, at his own cost and expense in all things when and so soon as all the said instalments shall have been paid or advanced, or, in the meantime, if required by the said [*lender*], execute register and otherwise perfect to him a valid and effectual bill of sale of ALL the household furniture, goods, chattels, and effects comprised in the inventory hereunto annexed, and signed by both the said parties, for securing the said sum of £—— or so much thereof as shall be then due, with interest for the same at the rate of £—— per cent. per annum, without any deduction whatsoever except income tax.

3. The said bill of sale shall be in the form required by the Bills of Sale Act (1878) Amendment Act, 1882, and shall contain all usual and proper

(*f*) Stamp 2*s*. 6*d*. per cent. of the loan. See as to this form, p. 303, note (*d*).

covenants, powers and clauses, such as are inserted in bills of sale of the like or a similar nature.

4. [*Power of attorney to execute bill of sale as in Form* 169, *clause* 4, p. 303, *supra, substituting* the said [*lender*] *for* the lender *and* the said [*borrower*] *for* the borrower.]

5. In the meantime and until such bill of sale shall have been executed, interest, at the rate aforesaid, shall be charged and payable by the said [*borrower*] upon the said sum of £——, on the usual quarter days as if the whole thereof had been paid, upon the signing hereof such sum being retained unproductively at the request of the said [*borrower*].

6. If default be made in payment of such interest or, if the said [*borrower*] shall become bankrupt, or, shall attempt to compromise with his creditors, or do or suffer any act whereby any legal proceedings whatever, whether civil or criminal, shall be taken against him or his effects, it shall be lawful for the said [*lender*] thereupon, or at any time thereafter, to enforce the said bill of sale, if granted, or exercise the power of attorney herein contained if such bill of sale has not been granted, or to sue for so much of the said sum of £—— as shall be then due, together with interest, costs, expenses, and penalties incurred and attending it all which the said [*borrower*] shall be liable to pay.

IN WITNESS, &c.

[*Signature and seal of borrower.*]

171.

MEMORANDUM of Deposit of Chattels as Security for Loan (*g*).

To [*lender*], of &c.

THE articles specified in the annexed inventory which I, the undersigned [*borrower*] of &c., have this day deposited with you are to be held as a security for the repayment to you within —— months from this date of the sum of £—— which you have this day lent me, together with interest thereon at the rate of —— per cent. per annum. And I hereby authorise you, in the event of non-payment thereof within that period, to sell the same at any time, and in any way you may think proper, and out of the proceeds of such sale after paying all expenses of and incidental to the same to retain the said sum of £—— and interest and to pay the balance (if any) to me. You are not to be liable for any loss or damage of or to the said articles unless caused by your own wilful negligence.

Dated this —— day of ——.

[*Signature of borrower.*]

(*g*) Stamp. 6*d*. See *Attenborough* v. *Inland Revenue Commissioners* (1855), 11 Exch. 461. This document is not within the Bills of Sale Acts 1878 and 1882, as possession of the chattels has been given independently of the memorandum (*Re Hardwick, Ex parte Hubbard* (1886), 17 Q. B. D. 690; *Ramsay* v. *Margrett*, [1894] 2 Q. B. D. 18; *Wrightson* v. *McArthur and Hutchisons*, [1921] 2 K. B. 807; and see *Dublin City Distillery Ltd.* v. *Doherty*, [1914] A. C. 823, 848, 855). A power of sale is implied (*Re Hardwick, Ex parte Hubbard, supra, at* p. 698).

172.

AGREEMENT for Postponing a Jointure to Proposed Mortgage (*h*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*jointress*] of &c. of the one part and [*mortgagor*] of &c. of the other part.

WHEREAS under a vesting deed dated the —— day of —— and made between [*parties*] all that freehold estate known as The —— Estate situate at &c. [and now in the occupation of the said [*mortgagor*]] was vested in the said [*mortgagor*] in fee simple upon the trusts (so far as the same were then subsisting) declared by a settlement [*or* trust instrument] dated the —— day of —— and made between [*parties*] which subsisting trusts included a trust that the said [*jointress*] from and after the death of her husband (which event has recently happened) should receive out of the said estate during the residue of her life by way of jointure a yearly rentcharge of £—— payable by equal half-yearly payments.

AND WHEREAS the said [*mortgagor*] is desirous of effecting a mortgage for the sum of £—— with interest thereon at the rate of £—— per cent. per annum on the hereditaments specified in the Schedule hereto which form part of the said —— Estate.

AND WHEREAS at the request of the said [*mortgagor*] and for the purpose of facilitating the raising of the said loan the said [*jointress*] [being satisfied that the residue of the said estate is ample security for the said jointure] is willing to postpone her said jointure to the said mortgage.

NOW THESE PRESENTS WITNESS that the said [*jointress*], in consideration of the natural love and affection she bears towards her son, the said [mortgagor] hereby agrees with the said [*mortgagor*] that she will concur in any mortgage which he may grant on the hereditaments specified in the schedule hereto for the purpose of effectually postponing her said jointure and all powers and remedies for enforcing payment of the same to the principal moneys and interest to be secured by the intended mortgage, so long as the same or any part thereof shall be owing upon or by virtue of the said intended mortgage, and further will procure the release if necessary by any person or persons in whom any term of years is now vested for the purpose of securing such jointure on the hereditaments specified in the Schedule hereto so as to give priority to the said principal moneys and interest but not further or otherwise.

PROVIDED ALWAYS that the amount of principal money to be borrowed on the security of such mortgage shall not exceed £—— and that this agreement shall not prejudice or affect the right of the said [*jointress*] to recover her said jointure from or against any other lands charged therewith, or except as against the person or persons for the time being entitled to

(*h*) Stamp, 10*s*.

the said principal sum and interest from or against the hereditaments specified in the schedule hereto.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Lands to be released.*]

[*Signature and seal of jointress.*]

173.

AGREEMENT by a Mortgagee to postpone Sale of Mortgaged Property (*i*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*mortgagee*] of &c. of the one part and [*mortgagor*] of &c. of the other part.

WHEREAS under or by virtue of a power contained in an indenture of mortgage dated the —— day of —— and made between [*parties*] the said [*mortgagee*] after having given due notice and default having been made in payment of the principal sum of £—— and interest secured is now about to offer the property comprised in the said mortgage consisting of a dwelling-house, &c. for sale by public auction

AND WHEREAS the said [*mortgagor*] has requested the said [*mortgagee*] to defer offering such property for sale for the period of —— months, for the purpose of enabling the said [*mortgagor*] to pay the said principal sum and interest.

NOW IT IS HEREBY AGREED as follows :—

1. In consideration of the agreement on the part of the said [*mortgagor*] hereinafter contained, the said [*mortgagee*] will not for the space of —— calendar months from the date hereof make sale or dispose of or proceed to offer for sale by public auction or otherwise, the said dwelling-house &c. [or incur any further expense in or about the preparation for such sale], but will permit and suffer the said [*mortgagor*] to occupy and enjoy the same premises during such period provided he do no wilful or unnecessary injury thereto.

2. The said [*mortgagor*] in default of payment of the said principal sum and interest at or before the expiration of the time now allowed for that purpose as aforesaid, will not in any way hinder or impede or attempt to hinder or impede the sale of the said premises by the said [*mortgagee*] in such manner, and subject to such terms, stipulations, and conditions as the said [*mortgagee*] shall consider proper or desirable.

3. The said [*mortgagor*] will not, during the period so allowed as aforesaid wilfully do, commit, or suffer any act or thing whatsoever to be done or committed which may injure the said premises [but will do, and cause to be done, all such acts and things as may be necessary or proper for keeping the same in good repair, order, and condition, in all

(*i*) Stamp 6*d*.

respects whatsoever and keep the same effectually insured against loss or damage by fire to the amount of £——].

4. The said [*mortgagor*] will, in the event of a sale of the said premises being effected, in default of payment of the said principal sum and interest as aforesaid, thereupon or so soon thereafter as the same shall be required in writing by the said [*mortgagee*], his heirs or assigns, deliver up peaceable possession of the said premises to him or them or as he or they shall direct.

IN WITNESS, &c.

[*Signatures of both parties.*]

PARCELS.

174.

DESCRIPTIONS of Various Corporeal Properties.

A. *Manor or Reputed Manor and Manor House.*

ALL THAT the manor [*or* reputed manor] of —— in the county of ——, comprising —— acres, more or less, of arable, meadow [water-meadow], pasture [plantations] and woodlands, now forming —— farms, which are in the several occupations of [*tenants' names*] and the manor-house [*or* mansion], offices, stabling, outbuildings, yards, gardens, lawns, and about —— acres of pasture land, called ——, and —— acres of plantations and coverts or woodland, situate &c. now in the occupation of the said [*vendor*], AND ALSO the fixtures and fittings in the said mansion and offices, and all the timber on the said manor, AND ALSO all rights of sporting and other manorial rights over the commons and waste within the said manor, AND ALSO the right of fishing [with rods or nets], in and over the river ——, from the place called or known as ——, in said parish of —— up to the mill called "—— Mill," at ——, in the parish of ——, in the said county, TOGETHER WITH all other rights, royalties, liberties, franchises, easements, and appurtenances whatsoever to the said manor, lands, and premises respectively belonging or in any wise incident or appertaining (*k*).

B. *Freehold Estate by reference to Schedule and Plan.*

ALL THAT estate called or known by the name of ——, with the mansion, domestic offices, stabling, coach-houses and outbuildings thereto belonging, situate at ——, in the county of ——, and comprising by estimation —— acres, more or less, the whole thereof, except —— acres of arable meadow and pasture, being in the possession of the said [*vendor*], and the said —— acres, with the farm-house and outbuildings thereon, called "The Home Farm," being in the occupation of [*tenant*], as a yearly tenant, all which said premises are more particularly specified in the

(*k*) The right to compensation for manorial incidents on the extinguishment thereof is a right appertaining to the manor, so as to pass without express mention on a conveyance of the manor (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 62 (3)).

Schedule hereunder written and delineated in the plan hereunto annexed (*l*), and thereon coloured [pink].

C. *A Farm.*

ALL THAT farm called or known by the name of ——, comprising —— acres, more or less, of arable, meadow [water-meadow] and pasture land [with the farm-house, barns, stables, outbuildings, sheds, yards, orchard and gardens thereunto belonging], situate at —— aforesaid, and now in the occupation of [*tenant*] as a yearly tenant.

D. *Advowson* [*and Glebe*].

ALL THAT the advowson of the Rectory, [*or* parsonage] of B, in the county of D [with the dwelling-house, offices, outbuildings, and gardens thereunto belonging, and now in the possession of [*incumbent*], the present incumbent thereof.

[AND ALSO all those the several closes of glebe lands, containing altogether —— acres, and now partly in the occupation of [*tenant*] and partly in the occupation of the said [*incumbent*]].

E. *Rent Charge.*

ALL THAT the perpetual yearly rent charge or annual sum of —— pounds, payable [half-yearly] to the said [*vendor*] and charged upon, and issuing from or out of, lands belonging to —— of &c. containing about —— acres, lying and being within the parish of ——, and stated in the Schedule hereunder written.

F. *Life Estate* (*m*).

ALL THAT the equitable life estate of the said [*vendor*] of and in ALL THOSE the [freehold *or* leasehold] lands and hereditaments described in the schedule hereunder written [*if leasehold, add* which premises are now held for the residue of a term of —— years, granted by an indenture of lease dated the —— day of —— and made between [*parties*]]

G. *Reversions or Remainders* (*m*).

ALL THAT the absolute reversion or remainder to which the said [*vendor*] is entitled in equity expectant upon and to take effect in possession on the death or sooner determination of the estate for life of [*life tenant*] of and in ALL THAT &c. [*describing the property, situation, and occupation*].

ALL THAT the contingent equitable reversion of the said [*vendor*] expectant upon and to take effect in possession on the death or sooner determination of the estate for life [without impeachment of waste] of —— therein, provided the said [*vendor*] shall survive him (who is now

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(*l*) As to the right of a purchaser to have a plan on his conveyance for the purpose of identifying the property, see *Re Sansom and Narbeth's Contract,* [1910] 1 Ch. 741; *re Sparrow and James' Contract,* [1910] 2 Ch. 60.

(*m*) From the commencement of the Law of Property Act, 1925, life estates, reversions, and remainders are equitable interests only and cannot exist as legal estates; see s. 1.

aged —— years), of and in the following leasehold properties, situate at ——, in the county of ——, namely :—

Names of the Lessees.	Description of Property.	Rent.			Annual Rent.			Term.
		£	*s.*	*d.*	£	*s.*	*d.*	
John Green . .	Dwelling-house, garden, shop, and premises.							— years.
George Brown .	A close called "Green Close."							— years.

H. *Undivided share.*

ALL THAT one equal third part or share of and in the proceeds of sale and of the net rents and profits until sale of all that &c. [*description of property*].

[*or* ALL THAT the share estate and interest to which the said [*vendor*] is entitled in equity of and in the property described in the Schedule hereto.]

I. *House in a Town.*

ALL THAT messuage or tenement numbered —— in —— Street [*or* Square] in the City of London and comprised in the registered title No. ——, District ——, Parish ——, in the Land Registry.

ALL THAT dwelling-house called "The ——" [numbered ——], with the coach-house, stables, garage yards, and gardens thereto belonging, situate in —— Street, in ——, in the county of ——, and in the occupation of [*tenant*] [TOGETHER also with the exclusive right to a pew appurtenant thereto [numbered ——], in the Parish Church called "St. Paul's," at —— aforesaid.]

ALL THOSE —— dwelling-houses heretofore known by the name of ——, but now called —— terrace, and numbered consecutively — to —, with the outhouses and gardens thereunto adjoining and respectively belonging, situate at —— aforesaid, and in a certain street or lane there called the —— Street, and now in the respective occupations of [*tenants*] WHICH said premises contain, by admeasurement, in length from east to west, including the wall at the [western] extremity of the said gardens, —— feet, and in breadth, from [north to south], at the upper part of the said gardens, exclusive of the road or pathway leading to the stable [*or other building*] standing at the [western] extremity of the said garden, and lately occupied by ——, but now by ——, —— feet and —— inches, and in breadth, from [north to south], at the [eastern] extremity of the said gardens, exclusive of the said road or pathway, —— feet and —— inches ; and at the [western] extremity or front of the said dwelling-house, exclusive of the said road, —— feet ; all which said premises are delineated on the plan hereto annexed and thereon coloured [blue].

ALL THOSE —— several semi-detached villas or dwelling-houses, numbered —— and ——, called —— Terrace, with the domestic offices and buildings and yards thereunto respectively belonging, situate at &c.

and now in the several occupations of [*tenants' names*] WHICH said premises are bounded partly by the lane [or pathway] called —— Lane, and partly by a field [or close] called —— Close, on or towards the [east]; by the highway leading from A to B on the [west]; by a cottage and garden called —— on the [north]; and by a garden and orchard belonging to ——, and now in the occupation of ——, on the [south] thereof ALL which said premises were conveyed to the said [*vendor*] by a conveyance bearing date the —— day of ——, and made between [*parties*].

J. *Cottages and Gardens.*

ALL THOSE [ten] cottages now in course of erection and numbered or intended to be numbered consecutively — to —, in —— Street, at ——, in the county of ——, and more particularly delineated in the plan hereto annexed, and thereon coloured [red].

ALL THAT [brick-built] cottage known as ——, situate at ——, with the offices, stable, coach-house, outbuildings, and garden thereunto belonging now in the occupation of [*tenant*] as a yearly tenant.

ALL THAT cottage called ——, with the offices, aviary, coach-house, stable, lawn, garden, and small paddock [*or* orchard] thereunto adjoining and belonging, situate at ——, and held by [*tenant*] under a lease dated the —— day of ——, and made between [*parties*].

K. *Mills and Factories.*

ALL THAT steam [*or* water] power [cotton] mills, known as ——, situate at —— TOGETHER with all the outbuildings, sheds, engines, machinery, and running gear thereunto belonging and now used therein and therewith [and comprised in the schedule hereunder written] [and also so much of the bed of the river —— as is co-extensive with the said premises and all water-pipes and rights of water enjoyed in connection with the premises. AND ALSO the use of the weirs, hatches, sluices, easements, rights, members, and appurtenances whatsoever thereto belonging and now used with the said mill].

ALL THAT [stone-built] factory, [comprising —— floors, for the manufacture of cloth with the mill driven by a [modern high-pressure] steam engine, made by —— and Son], outbuildings, sheds, and yards thereto belonging, situate at, &c., and in the occupation of, &c.: TOGETHER with a right of way for horses, waggons, carts and other vehicles, as well as for foot-passengers, to pass and repass over the road leading to the said mill.

ALL THAT steam flour-mill containing —— pairs of [French] stones, with the dwelling-house, outbuildings, yard, and garden thereto adjoining and belonging, situate ——. TOGETHER also with all the stone, machinery, tackle, gear and landlord's fixtures and fittings, now in the said mill which is in the occupation of the said [*vendor*].

ALL THAT flour [and grist] mill, containing —— pairs of flour [and —— pairs of barley] stones, with the [mill-house or] dwelling-house, stable, shed, garden, orchard, and pieces [or parcels] of pasture land called ——, thereto belonging, containing by admeasurement —— acres or thereabouts situate at ——, and occupied by [*tenant*]

TOGETHER also with all the stones, machinery, tackle, gear, fixtures, and fittings in and to the said mill belonging or appertaining which are to be taken by the said [*purchaser*] at a fair valuation AND ALSO the use of the weirs, hatches, and sluices, easements, rights, members, and appurtenances whatsoever to the said mill also belonging or appertaining.

L. *Brewery.*

ALL THAT brewery, known as The —— Brewery, with beer, ale, and spirit cellars, store-houses, counting-house, cooperage, washing-house, yards, stabling, and sheds thereunto adjoining AND ALSO the dwelling-house, offices, coach-house, [private] stable, yards, and [walled-in] garden thereunto belonging, situate at ——, the whole thereof now being in the possession of the said [*vendor*] AND ALSO all the plant, fixtures, and fittings in the said brewery and dwelling-house and all the casks, drays, waggons, horses, harness, and other effects belonging to or used in the said brewery or brewery business now carried on by the said [*vendor*]; which last-mentioned articles are to be taken at a fair valuation as hereinafter mentioned.

M. *Hotel, Inn, &c.*

ALL THAT [family *or* commercial] hotel known by the name of The —— Hotel, with the cellars, coach-houses, stables, garage, sheds, yards, garden, easements, and appurtenances thereunto [adjoining and] belonging, situate at, &c. and occupied, &c.; AND ALSO the goodwill, licences (*n*), and custom thereto belonging, and all the fixtures and fittings therein and thereto.

ALL THAT building containing —— rooms, and known as The —— Hotel, situate at &c. with the tap and the billiard-room thereto belonging, and used therewith, and occupied by the said [*vendor*], and the goodwill and custom thereof respectively; AND ALSO all the fixtures, &c. [*as above*].

ALL THAT inn [and posting-house] called The —— Inn, with the [brewery], vaulted cellars, corn stores, coach-houses, stables, sheds, yards, garden, easements, and appurtenances thereto belonging, situate at ——, and in the occupation of [*tenant*], who holds the same by lease for a term of —— years, of which —— years are now unexpired.

ALL THAT inn or public-house, [ale house, beer house,] known by the sign of The - —, with the bar, smoking-room, yard, stabling, outbuildings, sheds, and all easements and appurtenants thereto belonging, situate in —— Street, at ——, in the county of ——, and now in the occupation of [*tenant*], as a yearly tenant; TOGETHER with the goodwill and custom thereof, and all other rights, easements, and appurtenances whatsoever thereto belonging.

N. *Malthouses.*

ALL THAT malthouse [having —— floors, capable of wetting —— quarters of malt], with kiln [and mill complete], and corn loft [and stores over it], stable, granary, outbuildings, sheds, and yard thereto

(*n*) An assignment of a hotel includes the licences, but it is well to name them.

adjoining, situated [near the railway station] in —— Street, in the [market] town of B, and now in the possession of the said [*vendor*].

O. *Stores.*

ALL THOSE corn [*or* furniture *or as may be*] stores, containing —— floors, with stabling, sheds, and yard and approach thereto, in —— Street, at —— in the county of —— and now in the possession of the said [*vendor*].

ALL THOSE stores, with wharf, comprising —— roods and —— perches, now used as bond-stores, containing —— floors and separate compartments, with the stabling, sheds, and yard and wharf adjoining the —— Canal [*or river*] situate at —— in the city of ——.

P. *Lands.*

ALL THOSE —— closes of meadow [*or* pasture *or* arable] land particulars whereof and of the acreage and cultivation thereof are contained in the schedule hereto situate at —— in the county of —— and now in the occupation of [*tenant*] as a yearly tenant whose tenancy will expire at —— next.

ALL THAT close or field of arable land called "—— Close" [formerly a hop garden] containing —— acres —— roods and —— perches, more or less, situate at ——.

ALL THAT close of pasture [heretofore arable] [*or* orchard *or* garden *or* nursery garden *or* common] land formerly known by the name of —— but now called —— containing by estimation —— acres, situate at ——.

ALL THAT plot or strip of land containing about —— perches, and in length from east to west —— feet, and from north to south —— feet, situate at ——.

ALL THAT piece or parcel of land called —— whereon a malthouse [*or other building*] formerly stood, containing about —— perches (more or less), situate at ——; which said land is bounded by a garden belonging to —— on [or towards] the [east] by a stable and sheds belonging to —— and in the occupation of [*tenant*] on [or towards] (*o*) the [west], by a road or lane called —— Lane on [or towards] the [north] and by the street known as —— Street on [or towards] the [south] part thereof, which premises are more particularly described in the schedule hereto, and delineated and coloured —— on the map on these presents, such schedule and map being respectively extracts from the apportionment of the tithe commutation rent charge for the said parish and from the map therein referred to [*or* the ordnance survey dated the —— day of ——].

Q. *Building Sites.*

ALL THAT field or close of land called —— comprising —— acres or thereabouts, forming sites for buildings, situate in —— in the county of

(*o*) It often happens that the boundaries do not run according to the cardinal points; and, therefore, where the description is not aided by a plan, these words should, for the purpose of a greater accuracy, be introduced. It is better to follow the popular order of those points—east, west, north, south. As to ambiguity in boundary lines, see *Lyle* v. *Richards* (1866), L. R. 1 H. L. 222. The consent of the Stationary Office is required to the use of a plan based on the Ordnance Survey.

—— and at a place there called —— bounded by pasture land belonging to and occupied by —— on the east by the road leading to the —— railway on the west by a paddock belonging to —— on the north and by a dwelling-house and garden belonging to —— and occupied by —— on the south.

ALL THAT strip of land, comprising half an acre or thereabouts lying on the —— side of the road leading from —— to —— at the western side of the town of —— in the county of —— and containing in length at each extremity from east to west —— feet, and at each extremity from north to south —— feet, as the same is now staked out for villa residences and delineated on the plan hereto annexed.

R. *Plots of Land.*

ALL THAT piece or plot of land formerly known as —— but since called —— and now staked out and intended to be used as sites for villas, situate at —— and abutting on the highway on the east, and bounded by a close of pasture belonging to —— and in the occupation of —— on the west, by a lane called —— Lane on the north, and by a garden belonging to and in the occupation of —— on the south.

S. *Uncultivated Land.*

ALL THAT piece or parcel of uncultivated [*or* heath *or* moor *or* peat] land and lying in —— Common in the parish of —— in the county of —— bounded by another allotment belonging to —— on the east, by a fir plantation belonging to the [*vendor*] on the west, by the road or driftway leading from —— to —— on the north, and by a piece of cultivated (lately heath) land belonging to —— on the south WHICH said piece of land was set out, allotted and awarded to the [grandfather *or* father of the] said [*vendor*] by the inclosure commissioners [*or* Ministry of Agriculture and Fisheries] by an award dated the —— day of —— in lieu of certain rights of common therein mentioned.

T. *Coppice.*

ALL THAT coppice [or close] of woodland [and plantation], containing —— acres stocked with [thriving] oak and ash timber and underwood [of —— years' growth, situate at —— TOGETHER with the said timber and other trees and underwood now growing thereon.

U. *Orchard.*

ALL THAT orchard or close of land called —— Orchard, containing about —— acres stocked with apple [plum] and pear [*or other*] trees, situate at ——

V. *Gardens.*

ALL THAT piece or parcel of land, containing about —— acres [set out in allotments and], used as garden ground [*or* a nursery garden *or* a market garden] situate at —— and now in the occupation of the [*vendor*].

W. *Brick-earth or Clay-land.*

ALL THAT close or piece of land known as —— comprising by estimation —— acres, little more or less, and containing brick-earth or clay with a surface of sand and gravel, situate at —— and occupied by [*tenant*] as a yearly tenant.

ALL THAT piece or parcel of land called —— comprising —— acres —— roods and —— perches, more or less, situate at —— in the parish of —— in the county of —— and containing clay and loam.

X. *Ore-land.*

ALL THAT field or parcel of land called ——, comprising by admeasurement —— acres, containing iron [*or* tin] ores for smelting purposes situate at &c. and delineated on the plan hereto annexed and thereon coloured [red].

Y. *Willow-bed.*

ALL THAT piece or parcel of marsh-land now used as a willow [*or* osier *or* rush *or* flag] bed, containing by estimation —— acres —— roods and —— perches, situate &c. and now in the possession and use of the said [*vendor*] bounded by pasture land belonging to and occupied by —— on the east and north, by a garden belonging to and in the occupation of —— on the west, and by the —— Railway on the south WHICH said piece of land was heretofore excavated for the purposes of the said railway, and formed part of a close or field called or known by the name of "—— Close."

Z. *Foreshore or Mud-land.*

ALL THAT piece or parcel of mud-land part of the foreshore [and adjoining the quay] at the port of —— comprising —— roods and —— perches, and containing in length, in the front and back [east and west] parts thereof —— feet, and on both the other [north and south] sides thereof —— feet; and in depth about —— feet, and now used by the said [*vendor*] as a bond [timber] pound.

AA. *Lake.*

ALL THAT piece or parcel of land covered by water and known as —— Lake situate at —— and containing by estimation —— acres or thereabouts.

BB. *Timber Yard.*

ALL THAT piece or parcel of land, containing —— roods and —— perches, now used as a timber yard, with the saw-mill [*or* saw pit] counting-house, sheds, [large] yard, and drying stages thereto belonging, situate at —— and in the occupation of the said [*vendor*].

CC. *Ship Yard and Wharf.*

ALL THAT piece or parcel of land, containing —— roods and —— perches (more or less), now used as a ship yard [and wharf], called or known as The —— Yard [*or* Wharf], situate at —— in the port of ——;

TOGETHER with the [patent] slip, engine-house, counting-house, block-makers' and carpenters' workshops, smithy, ship and builders' yards, engine-house and steam-engine as fixed, and the gear, iron, block, and other storehouses, pit and other sheds, plants, fixtures and fittings thereunto belonging, and now used therewith by the said [*vendor*] which are to be taken by the said [*purchaser*] at a fair valuation and which are comprised in the schedule hereunder written and signed by both the said parties.

DD. *Weighing Machine.*

ALL THAT piece or parcel of land, containing in length from east to west —— feet, and in breadth from north to south —— feet, with the weighing-house thereon, and the weighing engine therein and all the appliances and appurtenances thereto, situate by the roadside at —— in the county of —— TOGETHER also with the custom and tolls henceforth to become payable for the use or in respect thereof.

EE. *Enfranchised land.*

ALL THAT tenement and land adjoining situate at —— in the county of —— and delineated on the plan hereto annexed and thereon coloured [red] which hereditaments were formerly copyhold of the Manor of —— but were enfranchised by virtue of the Law of Property Act 1922 and were described on the Court rolls of the said Manor [*add description from Court Rolls*].

FF. *Leaseholds.*

ALL THAT messuage known as No. — —— Street in the county of —— for the residue of a term of —— years granted by a lease dated the —— day of —— and made between [*parties*] and therein more particularly described.

175.

DESCRIPTIONS of Various Incorporeal Rights.

A. *Rights of Footway.*

ALL THAT the right of footway [*or* carriage way] for the said [*purchaser*] and his successors in title and all other persons authorised by him or them [in common with the said [*vendor*] and his successors in title and all other persons having the like right] over and along the road, being —— —— feet wide, leading to and from the High Street, in —— aforesaid, up to and from the stable and coach-house hereinbefore described; he keeping the said road and gates belonging thereto in proper repair [*or* contributing one moiety of the expenses of repairing the said road].

B. *Of Stallage.*

ALL THAT the right of Stallage in the public market-place of —— in the county of ——, but subject to the tolls or rent payable in respect thereof, and to the rules and bye-laws governing or affecting the same.

C. *Of Drainage.*

ALL THAT the free and uninterrupted right of drainage in, over, upon, and along the adjoining premises belonging to —— and in the occupation of ——, on the —— side of the premises hereby agreed to be sold, into the main sewer on the —— side thereof.

D. *Rights of Common, &c.*

ALL THOSE the freehold rights of common for —— cows and —— sheep to depasture in the marsh called —— Close at ——, in the county of ——, and for —— horses and beasts to depasture in the common fields and moors at ——, in the county of —— [from Lady Day to Michaelmas] in common with the cattle of the other commoners thereof.

E. *Pasturage.*

ALL THAT the freehold right of the said [*vendor*], to depasture —— cows and —— sheep in and over the common fields of ——, in the county of ——, from the —— day of ——, till the —— day of ——, in every year, in common with the cattle of other persons having similar rights of common.

ALL THAT the common of pasture or right of the said [*vendor*], of depasturing annually —— yearlings [*or other cattle*] in the moor, called or known as —— Moor [containing —— acres, or thereabouts, and], situate within the parish of —— in the county of ——, from the —— day of —— till the —— day of —— in every year.

F. *Beast Leazes.*

ALL THOSE freehold leazes for —— horses, —— beasts, and —— sheep, in the common fields [*or* waste *or* heath lands] at —— in the county of ——, in common with the cattle of other persons having similar rights of common.

G. *Foreshare.*

ALL THAT the foreshare and exclusive right of the said [*vendor*] of annually cutting the grass and making into hay the first crop of grass which shall grow on —— acres of land forming the common field called —— Mead, situate at —— aforesaid, and the right of making thereon and carrying away such hay for his own use, either by himself or his servants, or by his or their authorised assistants.

ALL THAT the freehold foreshare and exclusive right of the said [*vendor*] of cutting in every alternate year [*or* two years in every three years], the grass which shall grow on —— acres of land in a mead called —— Mead, in the parish of ——, the foreshare of which, every alternate [*or* every third] year, belongs to ——.

H. *Aftermath.*

ALL THAT the freehold and exclusive right of the said [*vendor*] of annually cutting and making into hay and of carting and carrying away for his own use and benefit all the grass forming a second crop which shall grow on —— acres of land in the common field.

I. *Right of Sporting.*

ALL THAT the right of hunting, shooting, and sporting, in, over, and upon the lands of ——, of &c. known as —— Living, situate at —— [during the life of the said [*vendor*], for which period only the said right is held].

J. *Right of Fishing.*

ALL THAT the right of angling or fishing, with or without nets, but so as to leave a proper stock of each sort of such fish as are now in the said river, in the stream coloured [blue] on the plan thereunto annexed, during the residue of a term of —— years, of which —— are now unexpired.

176.

INCUMBRANCES, Charges, Exceptions and Reservations (*p*).

A. *Incumbrances* (*q*).

WHICH said premises are sold subject to the equitable estate therein for the life of —— of &c. widow who is now in the —— year of her age.

Or SUBJECT to the unexpired residue of a term therein of 90 years determinable by notice [as to one moiety] on the death of —— of &c. who is now aged about —— years and [as to the other moiety] on the death of —— of &c. who attained the age of —— years on his last birthday [*or* determinable by notice on the death of the survivor of —— of &c. now in the —— year of his age and of —— of &c. who is now aged about —— years] (*r*).

Or, SUBJECT to a lease thereof, dated the —— day of —— granted by the said [*vendor*] to [*tenant*] for the term of —— years, at the yearly rent of £——.

B. *Charges.*

WHICH said premises are sold subject to an annuity of £——, payable to ——, of &c. spinster, now aged —— years, during her life [*or*, during the life of E. D., aged —— years].

Or, SUBJECT to a perpetual [*or*, rectorial tithe] rentcharge of £——, charged thereon, and now payable to ——, of &c.

Or, SUBJECT to a rentcharge of £——, payable to and during the life of ——, of &c. widow, now aged —— years.

Or, SUBJECT to a chief rent of £——, payable annually to —— of &c. out, or in respect, of the said premises.

Or, SUBJECT to the payment of a legacy of —— pounds bequeathed by the will of A. B., late of &c. deceased, to C. C., of &c. spinster and charged, thereon.

(*p*) The following clauses are intended to be *added* to the description of the parcels.

(*q*) For an interpretation of the word "incumbrance," see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 205 (vii).

(*r*) A lease for lives or for years determinable with life, whether made before or after the 1st January, 1926, can only exist in equity and takes effect at law as a lease for a term of 90 years determinable on the cesser of the last life by one month's notice in writing; Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 149 (6).

Or, SUBJECT to a mortgage [or charge by way of legal mortgage] thereof dated the —— day of —— and made between [*parties*] for securing £——, with interest thereon at the rate of —— per cent. per annum, which interest has been paid up to the —— day of —— last.

Or, SUBJECT to the manorial incidents saved by Part V of the Law of Property Act 1922 and to the mining, sporting and other rights of the lord preserved by the Twelfth Schedule thereto affecting the property.

Or, SUBJECT to a compensation agreement dated the —— day of —— and made between [*parties*] and to the moneys remaining unpaid thereunder and to the statutory charge [or terminable and variable rent-charge] for securing the same.

C. *Exceptions and Reservations* (*s*).

WHICH said premises are sold subject to the right of the owners, tenants, and occupiers of the adjoining property, on the south [*or other side*] thereof, and of others, with their permission, to the use of the road or way [coloured —— on the said plan], leading through and over the said close of land called —— Close in common with the owner, tenants, and occupiers of the said close, and others with their permission.

Or, SUBJECT to the right of passage on foot along the path, [three feet in width] between the said dwelling-house hereby sold, and the messuage adjoining the same on the [east] side thereof now and heretofore enjoyed by the owners and occupiers of such adjoining messuage.

Or, SUBJECT to the use of the pump and well [indicated by the letters A and B on the said plan], and the right to the water therein and to be drawn therefrom, lying at the back of the said dwelling-house by the owners, tenants, and occupiers of the adjoining dwelling-house in the occupation of ——; and also subject to the payment for the time being, of a moiety of the expense of keeping the said pump and well, and the path leading therefrom in proper repair.

EXCEPT and always reserved unto the said [*vendor*], and his successors in title a right of way at all seasonable times for him and them and his or their family, friends, servants, workmen, and others by his or their or any of their licence or authority, with horses, carts, carriages, waggons or motor-cars, to stop, pass, and repass, on, over, through, along, and upon the road or way at the southern extremity of the premises hereby contracted to be sold, leading from and out of the said terrace up to the stables [and garage] adjoining or near to the last-

(*s*) The terms "exception" and "reservation," though often used together, are not synonymous, an exception being a restriction by which the vendor or lessor retains a part of the parcel which would otherwise pass under the general terms, as woods, timber, trees, mines, and minerals. A reservation is a creation in the vendor or lessor's favour of something not part of the parcels, but issuing out of them, as in the case of rent. The terms reservation and exception are also often used in respect of what is strictly a re-grant, as a right of way, or rights of shooting, &c., and, as between lessor and lessee, such reservations of an easement or of the right of shooting, hunting, fowling, or fishing, must be in a lease under seal executed by the tenant, see generally Halsbury's Laws of England, title "Deeds and Documents," vol. 10, p. 470.

mentioned premises [which road or way is more particularly delineated in the said plan, and therein distinguished by being coloured ——].

EXCEPT, and always reserved unto the said [*vendor*], his successors in title, and his and their family, friends, servants, and others by his or their or any of their licence or authority, the right jointly with the purchaser and his successors in title or licensees to use, at all times, the pump, and well and water therein, situate [at or near the spot marked "P" in the said plan], in the stable-yard, and against or near the eastern wall dividing the said premises from other premises in the said terrace belonging to the said [*vendor*], and distinguished as No. ——, and now in the occupation of ——. AND ALSO all that the exclusive right to the private road [or pathway] leading from the High Street into the said close of land, as now used by the said [*vendor*] which said road [or pathway] is more particularly delineated and described in the plan drawn in the margin hereof and therein distinguished by double lines dotted [red].

177.

SCHEDULE of Parcels.

THE SCHEDULE ABOVE REFERRED TO.

No. on Plan.	Description.	Name.	Quality.	Quantity.		
				A.	R.	P.
1	The Homestead	Upper Farm	Yards, &c.			
2	North Fields	—— Acres	Arable			
3	South Fields	The Furlongs	Ditto			
4	Closes	Cowleazes	Pasture			
5	Woodland	The Clift	Coppice			
6	Plantation	The Plantation	Oak, Fir, and Wood			
			Total . . .			

PARTITION.

178.

AGREEMENT for Partition of Freeholds between Tenants in Common in Equity (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*one tenant in common*] of &c. of the one part and [*other tenant in common*] of &c. of the other part.

(*a*) Stamp, 6*d*. For other forms relating to partition see Encyclopædia of Forms, 2nd Edn. vol. 11, pp. 397 *et seq*.

Tenancy in common of a legal estate in land is abolished: see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 34. A disposition after the commencement of that Act, which purports to create such a tenancy, operates to vest the property in trustees as joint tenants at law upon the statutory trusts. As to the meaning of "statutory

WHEREAS by his will dated the —— day of —— and proved in the —— Probate Registry on the —— day of —— by [*executors*] the executors therein named [*testator*] formerly of &c. demised the hereditaments specified in the schedule hereto unto the parties hereto as tenants in common in equal shares (*b*).

AND WHEREAS by virtue of the Law of Property Act 1925 the said hereditaments are now vested in the said executors as joint tenants upon the statutory trusts.

AND WHEREAS the parties hereto are desirous of making a partition of the said hereditaments in manner hereinafter appearing.

NOW IT IS HEREBY AGREED as follows :—

1. [*Arbitrator*] of &c. or him failing [*arbitrator*] of &c. shall on or before the —— day of —— next or within such extended time as he shall by writing under his hand appoint before the —— day of —— make partition of the said hereditaments into two shares of equal value so far as possible and in the event of any inequality shall direct what sum shall be added to either share for equality of partition.

2. The person making partition under clause 1 hereof shall be entitled to make and procure such plans, particulars, and information affecting the said hereditaments or any part thereof as he shall think fit and each of the parties hereto shall afford him such assistance in making such partition as he may reasonably require.

3. The person making such partition shall apportion between the several allotments made by him all charges, easements, or liabilities affecting the said hereditaments and direct what indemnities if any shall be given in respect thereof.

4. So soon as the said allotments have been made the parties hereto shall each choose one such allotment. In default of agreement priority of choice shall be determined by drawing lots in such manner as the person making partition shall direct.

5. Each party hereto shall within —— days after the appropriation of the said allotments has been determined furnish to the other of them

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trusts" see *ibid.* s. 35. No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, is permissible (*ibid.* s. 36 (2) (3)); but nothing affects the right of a joint tenant to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants (*ibid.*); and where a legal estate (not being settled land) is vested in the joint tenants beneficially, any of them can sever the joint tenancy in equity in the manner described in the proviso to s. 36 (2). Apart from these provisions, no undivided share in land can be created except, in the case of settled land, under a trust instrument, and then, also, it only takes effect behind a trust for sale (Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 36).

(*b*) It is assumed that the devise takes effect after the 31st of December, 1925, in which case the hereditaments are, by virtue of the Law of Property Act, 1925, s. 34 (3), vested in the executors as joint trustees for sale upon trust to give effect to the equitable interests of the parties hereto. If the devise had taken effect before the 1st of January, 1926, the hereditaments would have been, by virtue of the provisions of Part IV of the First Schedule to that Act, vested as from that date either in the parties hereto or in the Public Trustee or in trustees specially appointed by the Court, as the case may be, upon the like trusts.

a proper abstract of such party's title to his [or her] share of the said hereditaments.

6. The party to whom such abstract shall be delivered shall make his [*or* her] requisitions thereon within —— days after delivery of such abstract as to which time shall be of the essence of the contract, and the party delivering such abstract shall so far as reasonably possible comply with the said requisitions.

7. The partition shall be completed on the —— day of —— on which day the parties hereto with the concurrence of all other necessary parties shall respectively execute make and do all such assurances, payments, and acts, at his [or her] own expense as are proper for carrying the said partition into effect. Any payment directed to be made for equality of partition and not paid on the —— day of —— aforesaid shall bear interest at the rate of £—— per cent. per annum from the said day until payment (*c*).

8. Possession or receipt of the rents and profits of any allotment made to any party hereto shall be given to each party as on the said —— day of —— as from which date such party shall bear the outgoings in respect thereof. All necessary apportionments of such rents and profits and outgoings shall be made by the person making partition.

9. Such party as the person making partition shall select shall have the custody of the title-deeds relating to the entirety of the said hereditaments, but such party shall at his [or her] own expense execute a proper statutory acknowledgment and undertaking to the other party for production and delivery of copies of and safe custody of the documents delivered to him [or her].

10. Except as otherwise hereinbefore provided each party shall bear his [or her] own costs and expenses of and incidental to the preparation and execution of this agreement and of any matter or thing to be done in pursuance hereof and the fees and expenses of the person making such partition shall be borne by the parties hereto in equal shares.

11. Any difference arising between the parties hereto as to the meaning or effect of this agreement or as to any act or thing to be done in pursuance hereof or any matter relating hereto shall be determined by the person making partition as aforesaid whose decision shall be final and conclusive.

AS WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of hereditaments.*]

[*Signatures of both parties.*]

(*c*) The trustees must, upon request of the parties, give effect to the partition arranged, by conveying the legal estate in the allotments to the parties in severalty. Payment of the equality money may be provided for by mortgage of the several interests of the party liable to pay the money (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 28 (3).

PARTIES (*d*).

179.

DESCRIPTIONS of Various Parties.

A. TITLED PERSONS.

Duke and Duchess.

The Most Noble [*Christian names*] Duke [*or* Duchess] of —— [*or if a royal Duke* His Royal Highness Prince [*Christian names*] Duke of ——, K.G.].

Marquis and Marchioness.

The Most Honourable [*Christian names*], Marquis [*or* Marchioness] of ——.

Earl and Countess.

The Right Honourable [*Christian names*], Earl [*or* Countess] of ——.

Viscount and Viscountess.

The Right Honourable [*Christian names*], Viscount [*or* Viscountess] of ——.

Baron and Baroness.

The Right Honourable [*Christian names*], Baron [*or* Baroness] ——, of ——.

Baronet.

Sir [*Christian and surnames*], of &c., Baronet.

Privy Councillors.

The Right Honourable [*names and title*], member of His Majesty's Privy Council.

Knights Grand Cross.

Sir [*Christian and surnames*], of &c., G.C.B. *or* G.C.M.G. [*or as the case may be*].

Knight Commander.

Sir [*Christian and surnames*], of &c., K.C.B. *or* K.C.M.G. *or* K.C.V.O. [*or as the case may be*].

Knight.

Sir [*Christian and surnames*], of &c., Knight.

Wife of Baronet or Knight.

Dame [*Christian name and surname*], wife of Sir [*name*], Baronet [*or* Knight *or* K.C.B., &c.].

(*d*) As a rule parties should be described by their Christian and surnames with the addition of their places of residence, profession or rank; but it is not usual to add the place of residence of peers, as the title is deemed sufficient distinction. A nobleman's son or daughter is described by his or her Christian and surname, adding:—**commonly called** —— (*the title by courtesy*), and this title by courtesy is subsequently used throughout the document.

Dowager.

The Most Noble [*or as the case may be*] [*Christian name*], Dowager Duchess [*or as the case may be*] of ——.

The Dowager Dame [*Christian name and surname*], widow.

B. THE LAW.

The Lord Chancellor.

[*Name and title*], Lord High Chancellor of Great Britain.

The Master of the Rolls.

[*Name and title*], the Master of the Rolls.

The Lord Chief Justice.

[*Name and title*], Lord Chief Justice of England.

Lord Justice of Appeal.

The Right Honourable [*name*], one of the Lords Justices of Appeal in England.

Judge of the High Court.

Sir [*name*], one of His Majesty's Judges.

The Attorney or Solicitor-General.

Sir [*name*], of &c., Knight, His Majesty's Attorney [*or* Solicitor] General.

King's Counsel.

[*Name*], of &c., Esquire, one of His Majesty's Counsel learned in the law.

Barrister.

[*Name*], of &c., Barrister-at-law.

Solicitor.

[*Name*], of &c., Solicitor of the Supreme Court [*or* Gentleman].

C. THE CLERGY.

The Archbishop of Canterbury.

The Most Reverend Father in God, [*Christian names*] by Divine Providence, Lord Archbishop of Canterbury, Primate of All England and Metropolitan.

The Archbishop of York.

The Most Reverend Father in God [*Christian names*], by Divine permission Lord Archbishop of York.

Bishops.

The Right Reverend Father in God [*Christian names*], by Divine permission Lord Bishop of B.

Deans.

The Very Reverend [*Christian and surnames*], Doctor of Divinity, Dean of the Cathedral Church of [St. Paul's, in the City of London].

Archdeacon.

The Venerable [*Christian and surnames*], of &c., Doctor of Divinity, Archdeacon of B.

Doctors.

The Reverend [*Christian and surnames*], of &c., Doctor of Divinity.

Clergy.

The Reverend [*Christian and surnames*], of &c., Clerk in Holy Orders [*and if so*, a Prebendary of the Prebendal Church of C.].

The Reverend [*Christian and surnames*], Clerk in Holy Orders, now with —— Regiment of His Majesty's Army stationed at ——.

D. THE ARMY.

Field Marshal.

The Right Honourable [*names and title*], a Field Marshal in His Majesty's Army.

Officers in the Army.

[*Name*], of &c., a General [*or* Lieutenant-General *or* Major-General *or as the case may be*] in His Majesty's Army.

E. THE NAVY.

Admirals.

The Right Honourable [*name and title*], an Admiral of the Fleet [*or* Admiral *or* Vice-Admiral *or* Rear-Admiral], in the Royal Navy.

Captains and other Naval Officers.

[*Name*], of &c., a Captain of the Fleet [*or as the case may be*] in the Royal Navy.

F. THE COUNTY.

Lord Lieutenants and Justices of the Peace.

[*Name*], of &c., Esquire, Lord Lieutenant of the County of D.

[*Name*], of &c., Esquire, a Justice of the Peace for the County of Middlesex.

G. GOVERNMENT OFFICERS.

The Commissioners (*e*) for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for and on behalf of His Majesty.

[*Names*], of &c. and of &c., Esquires, two of the Commissioners for the Redemption and Payment of the Land-tax in and for the District of ——.

The Ecclesiastical Commissioners for England.

The Charity Commissioners for England and Wales.

The Official Trustee of Charity Lands.

The Ministry of Agriculture and Fisheries.

The Board of Education.

The Air Council.

(*e*) It is unnecessary to state the name of the Commissioners. See 2 Wm. 4, c. 40, s. 7.

The Ministry of Health.
The Ministry of Pensions.
[*Name*], His Majesty's [Principal] Secretary of State for the Home Department [*or* for Foreign Affairs *or* for the War Department].
The Commissioners of Crown Lands (Crown Lands Act, 1927, s, 1).
The Commissioners of His Majesty's Works and Public Buildings.
The Forestry Commissioners (see Forestry Act, 1919, s. 2 (3)).
The Governors of the Bounty of Queen Anne for the augmentation of the Maintenance of the Poor Clergy.
The Conservators of the River Thames.

H. Companies.

The Worshipful Company of Merchant Tailors of the City of London.
The Warden and Commonalty of the Mystery of Mercers.
[*Company*], a company incorporated by Royal Charter whose chief office is situate at ——.
[*Company*], Ltd., whose registered office is situate at ——.
The Great Western Railway Company (*f*).

I. Mayors and Public Officers.

The Right Honourable (*g*) [*names and titles*], Lord Mayor of the City of [London].
The Mayor, Commonalty and Citizens of the City of ——.
The Mayor, Aldermen and Burgesses of the City of ——.
The Mayor, Bailiff, Burgesses and Commonalty of the Town [and County] of ——.
The Mayor, Aldermen and Burgesses of the County Borough of —— (*h*).
The County Council of —— (*i*).
The Council of the administrative County of London.
The Urban [Rural] District Council of the Urban [Rural] District of —— (*k*).
The Mayor, Constables, and Company of Merchants of the Staple of England (*l*).
The Warden and Fellows of Christ Church Hospital, at ——.
The Governor, Bailiffs and Commonalty of ——, in the County of ——.

(*f*) In describing a company, it is proper to follow the exact title given by the charter or Act of Parliament under which it is formed.

(*g*) The only Lord Mayors in England who are entitled to be styled "Right Honourable" are the Lord Mayors of London and York (see 64 L. Jo. p. 83).

(*h*) See *Mayor, &c., of County and Borough of Salford* v. *The County Council of Lancashire*, 25 Q. B. D. 384.

(*i*) By s. 79 of the Local Government Act, 1888, which established county councils throughout England and Wales, the council is to be a body corporate by the name of the County Council, with the addition of the name of the administrative county, with perpetual succession and a common seal.

(*k*) See The Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 21. An urban council is a body corporate with perpetual succession and common seal by virtue of the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 7, and a rural council is similarly incorporated by the Local Government Act, 1894, s. 24 (7).

(*l*) See *The Mayor, Constables, and Company of Merchants of the Staple of England* v. *The Governor and Company of the Bank of England*, 21 Q. B. D. 160.

The Keepers and Governors of the Collegiate School at —— in the County of ——.

The Governors of the Revenues and Possessions of the [Endowed] Free Grammar School at ——, in the County of ——.

The Wardens and Scholars, Clerks of St. —— College, in the City of ——.

J. GENERAL.

An Esquire.

[*Name*], of &c., in the Parish of ——, in the County of ——, Esquire, heretofore of No. —, Portland Place, London.

Gentleman.

A. B., of &c., in the County of ——, Gentleman.

Married Woman.

[*Name*], wife of [*husband*], of &c.

Divorced Woman.

[*Name*], of &c., formerly the wife of [*former husband*] [*or* and unmarried woman].

Spinster.

[*Name*], of &c., Spinster.

Widow.

[*Name*], of &c., Widow.

Bankrupt's Trustee.

[*Name*], the Trustee of the estate of [*bankrupt*], a bankrupt.

Lunatic's Committee or Receiver.

[*Name*], of &c., the Committee of the estate of [*lunatic*] a lunatic so found (*m*).

[*Name*], of &c., a person of unsound mind so found acting by [*Name*], of &c., the duly appointed committee of his estate.

[*Name*], of &c., a person of unsound mind not so found by inquisition by [*receiver*], of &c., the person appointed to exercise the powers of a committee of his estate.

PARTNERSHIP.

180.

AGREEMENT for a Co-partnership. Full Form (*n*).

AN AGREEMENT made the —— day of —— BETWEEN [*first partner*] of &c. of the one part, and [*second partner*] of &c. of the other part.

(*m*) In conveyances under Land Clauses Consolidation Act, 1845, s. 7, a lunatic's committee conveys in his own name. In cases under the Lunacy Act, 1890, he conveys in the name of the lunatic.

(*n*) Stamp, 6*d*. or 10*s*. if under seal. For other forms of Partnership Articles, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 11, pp. 449 *et seq.*

WHEREBY IT IS AGREED as follows:—

1. The parties hereto will become and continue partners together in the trade or business of [grocers] for the term of —— years, to be computed from the date hereof, determinable nevertheless as hereinafter mentioned.

2. The business of the partnership shall be carried on under the style or firm (*o*) of —— and Co. on the premises belonging to the said [*first partner*], situate ——, or in such other place or places as the partners shall from time to time mutually agree upon.

3. The capital requisite for carrying on the said business shall be advanced by the partners in equal moieties. The said [*first partner*] shall satisfy his liability to provide capital under this clause to the extent of £—— by handing over or assigning to the partnership the stock-in-trade, book debts and assets of the business hitherto carried on by him at —— aforesaid, and the said [*second partner*] shall satisfy his liability under this clause to the extent of £—— by handing over or assigning to the partnership the stock-in-trade, book debts and assets of the business hitherto carried on by him at ——. Each partner shall pay the balance of his capital in cash to the account of the partnership at the —— Bank on or before the —— day of —— next.

4. The bankers of the partnership shall unless and until the partners otherwise agree be the —— Bank, Ltd.

[4A. Each partner shall be entitled to receive out of the gross profits of the business interest at the rate of £—— per cent. on his capital for the time being in the business in every year. If in any year the gross profits of the business shall be insufficient to pay such interest the deficiency shall be made good out of the gross profits of any subsequent year or years.]

5 The partners shall be entitled to the profits of the said business in equal moieties and all losses (if any) arising in such business shall be borne by them equally, unless occasioned by the wilful neglect or default of either of them, in which case the negligent or defaulting party shall make good the same.

6. Each partner shall be entitled to draw out of the said business any sum or sums of money not exceeding £—— per month for his own use, such sums to be duly accounted for on each succeeding settlement of account and division of profits of the said business and any excess of the drawings of any partner over his share in the net profits for that current year, [and of his interest on capital] shall be refunded.

7. The said [*first partner*] and his family shall be at liberty to use and occupy the dwelling-house and domestic offices thereto where the said business is to be carried on except such part thereof as may be wanted for the purposes of the said business, at the rent of £——, but the rates and taxes, insurance and repairs for the same shall be paid out of the said

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(*o*) If the partnership has a place of business in the United Kingdom and carries on business under a business name, which does not consist of the true surnames of the partners, registration of the firm is required under the Registration of Business Names Act, 1916 (6 & 7 Geo. 5, c. 58), s. 1.

business and such partner shall be at liberty to quit the said premises at any time without notice, he paying a proportionate part of the said rent up to the time of such quitting.

[*Or* 7A. The said premises at —— aforesaid whereon the said business is to be carried on shall remain the sole property of the said [*first partner*] who shall be paid out of the partnership funds £—— a year for rent thereof and shall be entitled to occupy for the residence of himself and his family the third and fourth floors thereof, he paying one [fourth] part of the rates taxes, insurance, and other outgoings in respect thereof, the balance of the same being borne and paid by the partnership.]

8. Clerks' salaries, servants' wages, insurance of the stock-in-trade, and all other expenses and out-goings payable and incurred in the course of the business shall be paid out of the funds of the partnership. No apprentice, clerk, or servant shall be taken or engaged in or discharged from the said business by either of the partners without the consent of the other of them.

9. All premiums and emoluments whatsoever received in the course of the said business shall be considered as part of the profits thereof, and be divided accordingly.

10. On the —— day of ——, in every year of the said partnership, a full and correct account in writing of all the partnership property, capital, debts, credits, and effects shall be stated, in books to be kept for that purpose, and signed by both partners and each partner shall be concluded thereby, unless some manifest mistake or error shall appear therein and be notified to the other partner within —— calendar months next after the signing of such account, in which case such error or errors (and such only) shall be rectified. In such account interest at £—— per cent. per annum on all moneys advanced by either partner with the consent of the other, including any ascertained profits left in the business by either partner with the consent of the other as an accretion to capital on account of the said business shall be deducted and paid before the net profits of the business are ascertained.

11. Proper accounts shall be kept by the partners of all moneys received and paid, all contracts entered into, business transacted, and other matters, of which accounts ought to be kept in the said business. The partnership books, deeds, papers and vouchers shall be kept in the counting-house at the said place of business, and not elsewhere, and be open at all times during the hours of business for inspection of both the partners, who shall be at liberty to copy or make extracts from (but not to remove) the same.

12. The partners shall be faithful each to the other in all their dealings and transactions whatsoever in the partnership business and will at all times during business-hours, diligently and faithfully employ themselves respectively in the conduct and management of the business and concerns of the said partnership, and use their best and utmost endeavours to promote and beneficially extend the same. Provided that each partner shall be entitled to [one month's] holiday in each year.

13. Neither partner shall give credit or lend any of the partnership moneys to any person, firm, or company whom the other partner shall

have previously forbidden him to trust or give any bill, note, or security, or contract any debt on account of the said partnership, except in the usual and regular course of the business and for the benefit thereof, or compound, release, discharge, or postpone any debt, duty or demand due to the said firm, or become bail or surety, or enter into any gaming transaction, or neglect to punctually pay his private debts or do or suffer anything which shall be prejudicial to the commercial reputation of the partnership.

14. Neither partner shall, without such consent as aforesaid, sell, assign, or otherwise part with his share or interest in the said partnership business, capital, stock or effects, or directly or indirectly carry on or be engaged or interested in any other trade or business whatsoever, or knowingly or wilfully do, commit, or permit any act, matter or thing whatsoever, whereby or by means whereof the said partnership moneys or effects, or his interest therein, shall be seized, attached, extended, or taken in execution or prejudicially affected (*p*).

15. In case either partner shall become incapable (*q*) or incompetent to act in the proper discharge of his duties as such co-partner as aforesaid, or shall be guilty of any breach of any of the aforesaid agreements, or be convicted of any charge of a criminal nature, or commit any act of bankruptcy, it shall be lawful for the other partner within one month after becoming aware thereof if he shall think fit, to determine the said partnership by giving to such partner, or leaving with some adult person, at his last known place of abode notice in writing [specifying the particular grounds of complaint (*r*)], and thereupon the partner to whom such notice shall be given, or, if he should refuse or be incompetent, some proper person on his behalf, and if there should be no such person the continuing partner shall sign the usual notice of the dissolution of the partnership for insertion in the *London Gazette;* and the said partner shall within one week after such determination retire from and give up peaceable possession [of the said dwelling-house and offices, if then in his occupation and] of the said business premises and all the partnership stock, moneys, rights, credits and effects, on being paid or receiving security for the payment of the amount of his share or interest therein as ascertained at the date of such dissolution but without any share of undrawn profits or interest on capital for the year since the last general account was taken or if such dissolution takes place during the first year of the partnership since the commencement of the partnership.

16. If either partner shall die during the continuance of the partnership the surviving partner shall have the option of purchasing the share in the

(*p*) As to the ordinary rights of a mortgage of a share in a partnership, see Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 31, and *Bonnin* v. *Neame*, [1910] 1 Ch. 732; *Watts* v. *Driscoll*, [1901] 1 Ch. 294.

(*q*) By the Lunacy Act, 1890 (53 Vict. c. 5), s. 119, where a person being a member of a partnership becomes lunatic, the judge may, by order, dissolve the partnership; and by the Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 35, when a partner is found lunatic by inquisition, or is shown to the satisfaction of the court to be of permanently unsound mind, on application by a partner (or on behalf of that partner by his committee, or next friend, or person having title to intervene, as by any other partner), the court (that is, the Chancery Division) may decree a dissolution of the partnership.

(*r*) In the absence of special agreement, it seems that a notice of this kind need not specify the cause of complaint (*Green* v. *Howell*, [1910] 1 Ch. 495).

partnership of the partner so dying by paying to his legal personal representatives (1) the sum at which the deceased partner's share stood in the books of the partnership on the date of his death, if he shall die during the first year of the partnership term and in any other year the sum at which the deceased partner's share was estimated in the general account last preceding such death, and (2) interest at the rate of 5 per cent. per annum from the date of the commencement of the partnership or the date of such last general account as the case may be up to the date of such death on the amount of the deceased partner's share, but all drawings on account of profits during such period by the deceased partner under clause 6 hereof shall be deducted from the interest payable hereunder.

17. The surviving partner if he exercises the option mentioned in clause 16 hereof shall also pay to the widow, if any, of the partner so dying an annual sum equal to [one-eighth] of the net profits of the business of the partnership in each year, such sum to commence on the death of the partner so dying and to continue for the term of [10] years if the widow and the surviving partner shall so long live [and the said surviving partner shall so long carry on the said business either alone or in partnership] [and such annual sum shall be charged upon the goodwill of the business of the partnership].

18. The sum representing the deceased partner's share in the business under clause 16 hereof shall be payable by [four annual] equal instalments and the payment thereof shall be secured by the bond or covenant of the surviving partner. The interest payable under the same clause shall be paid as soon as possible after the said death. The surviving partner shall if required execute a bond to secure the payment to the widow (if any) of the deceased partner of the annual sum mentioned in clause 17 hereof by equal half-yearly instalments the first of which shall be payable six calendar months after the death of the deceased partner.

19. The surviving partner if he exercises the option mentioned in clause 16 hereof shall also covenant to indemnify the legal personal representatives of the deceased partner against all liabilities of the partnership.

20. If the option contained in clause 16 hereof shall not be exercised by notice in writing addressed to the legal personal representatives of the deceased partner within [3] months of the death of such partner or if the partnership term shall expire during the joint lives of the partners the partnership shall be wound up and the assets distributed and applied according to the Partnership Act, 1890.

21. If the partner so dying shall be the said [*first partner*] the said [*second partner*] if he exercises the option contained in clause 16 hereto shall be entitled to require the legal personal representatives of the said [*first partner*] to grant to him a lease of such part of the said premises No. —— as at the date of the death of the said [*first partner*] were used for the purposes of the business of the partnership for a term equivalent to the unexpired residue of the said partnership term at a rent of £—— per annum and subject to covenants for well and substantially repairing and insuring the same and other usual lessee's covenants in leases of property of the like nature in the locality. If the [*second partner*] shall

determine the partnership under clause 15 hereof he shall on making such payments or giving such security as is mentioned in such clause be entitled to a similar lease from the said [*first partner*].

22. If any dispute, or difference shall arise, either before or after the expiration or determination of the partnership, between the partners, or those claiming under them (*s*) touching or relating to the construction of these presents, or to the said partnership property, or effects, or to any of the partnership accounts, business, or transactions whatsoever, every such dispute or difference shall be referred to the arbitration of two indifferent persons, and their umpire to be chosen by the referees before entering upon such reference, and the award of such referees or umpire in the matters of such reference shall be made within —— days next after the first reference to them, or within such enlarged time or times as shall be allowed by the said referees or umpire, and endorsed on these presents, and shall be final and conclusive on both parties respectively, and those claiming under them respectively. In case any party shall for the space of —— days after request in writing, refuse or neglect to nominate his referee or in case either referee, when chosen, shall, for the like space of time, neglect or refuse to choose an umpire as aforesaid or to act, the referee of the other party may proceed alone in the business of the reference and his award, if made within the time or enlarged time aforesaid, shall, in like manner, be conclusive on both the said parties and their representatives, to all intents and purposes whatsoever. The costs of the said reference, and of all matters incident thereto, shall be borne and paid by the parties thereto in equal moieties, and subject as aforesaid such arbitration shall be conducted in accordance with the Arbitration Act, 1889.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

181.

AGREEMENT for a Co-partnership. Short Form (*t*).

THIS AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 180, p. 328, *supra*].

WITNESSETH that the parties hereto agree to become partners in the business of [tailors] under the style of —— from the date hereof [for the term of —— years (*a*),] upon the following terms :—

1. The business shall be carried on at No. —— in —— Street at —— or at any other place the partners may hereafter mutually agree upon for that purpose.

(*s*) See *Bonnin* v. *Neame*, [1910] 1 Ch. 732.

(*t*) Stamp 10*s*.

(*a*) If a term be not named, it is a partnership at will, and can be determined at any time by either party (Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 26 (1)), and though the partnership has originally been constituted by deed, a notice in writing signed by the partner giving it is sufficient (*ibid.* s. 26 (2)). As to the prolongation (after the expiration of the term limited by the partnership articles) of the original contract by tacit consent, except so far as inconsistent with a partnership at will, see *ibid.* s. 27 (1), and *Neilson* v. *Mossend Iron Co.* (1886), 11 App. Cas 298 ; *McGowan* v. *Henderson*, [1914] S. C. 839 ; *Murphy* v. *Power*, [1923] 1 I. R. 68.

2. Proper books of account shall be kept on the said premises and therein shall be duly entered, from time to time, all dealings, transactions, matters and things whatsoever in or relating to the said business; and each partner shall have full and free access thereto at all times, but shall not remove the same from such premises.

3. Each partner shall forthwith pay into the —— bank at —— the following sums, namely, the said [*first partner*] shall pay in the sum of £—— and the said [*second partner*] shall pay in the sum of £—— and the total of such sums aforesaid, together with all other moneys received on account of the partnership, shall be paid therein from time to time, [when and as often as they amount to £——,] and shall form the capital of the said firm from which all payments made in the course and on account of the said business [amounting to £—— or upwards] shall be drawn by cheques.

4. The capital and all stock, implements, and utensils-in-trade, purchased out of the partnership funds, as well as the gains and profits of the said business, shall belong to the partners as to [five-eighths] thereof to the said [*first partner*] and as to [three-eighths] thereof to the said [*second partner*].

5. The said [*first partner*] shall be entitled to draw £—— and the said [*second partner*] shall be entitled to draw £—— by cheque monthly for his own private use, on account, but not in excess of, his presumptive share of the profits, so long as the said business shall be found profitable, and the capital advanced as aforesaid shall remain undiminished.

6. Neither partner shall become bail or surety for any other person, or lend, spend, give, or make away with any part of the partnership property or draw or accept any bill, note, or other security, in the name of the firm, except in the due course of the said business nor, without the consent of the other of them, give credit to any person whomsoever or borrow money in the name of or so as to bind the firm or engage or dismiss any apprentice, shopman, assistant, or servant.

7. An account of the stock, implements and utensils belonging to the said business and of the book debts and capital shall be taken and a statement of the affairs of the said partnership made half-yearly, when the sums drawn by each party during the preceding half-year shall be charged to his share of the profits of the said business. If, at the end of any one year of the said partnership, it shall be found to be unprofitable, the said partnership shall thereupon be dissolved, unless such absence of profit shall be occasioned by some unavoidable loss or accidental circumstance.

8. Each party shall sign duplicate copies of each of such statements of affairs, and shall retain one of them for his own use and another copy thereof shall be written in the partnership books and likewise signed by each of them and such accounts shall not be opened, unless some manifest error shall be discovered within —— months thereafter, and then so far only as respects the correcting of such error, and every such statement of affairs shall, in all other respects, be conclusive evidence between, and binding on the parties.

9. At the expiration or termination, by death or otherwise, of the partnership a valuation and account of the stock, effects and capital and good-will, if any, of the said firm shall be taken in like manner, and the balance of such account then found to exist shall belong to the said parties, or to the legal personal representatives of either of them, in proportions to their shares of profits and be realised and divided accordingly and thereupon they, or the surviving partner and the representatives of any deceased partner, shall execute mutual releases.

10. All disputes and differences, if any, which shall arise between the said parties shall be referred to and decided by two competent persons well acquainted with the [tailoring] trade, one to be chosen by either party, or by an umpire to be chosen by the referees, in the usual course in similar cases, and their or his decision shall, in all respects, be final and conclusive on both the parties to such reference, and shall be given, in writing, within —— days next after each submission, or within such further period, not exceeding —— days, as they or he shall require and endorse hereon.

11. Either partner may determine the partnership hereby created on breach of this agreement by the other of them, or otherwise on giving to the other of them —— calendar months' notice thereof, in writing.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

182.

AGREEMENT for rectifying an Omission in Partnership Articles (*b*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*senior partner*] of &c. of the one part and [*junior partner*] of &c. of the other part.

WHEREAS these presents are supplemental to certain articles of partnership dated the —— day of —— and made between the same persons as are parties hereto and in the same order.

AND WHEREAS the said [*senior partner*] at the date of such partnership was and still is liable to pay out of the profits of the business formerly carried on by him, but now carried on by the parties hereto in co-partnership an annuity of £—— per annum to [*previous partner*].

AND WHEREAS by inadvertence, no provision was made when the said articles of partnership were entered into therein for the payment of the before-mentioned annuity although such provision was a term of the contract for such partnership, as the said [*junior partner*] hereby admits.

NOW IT IS HEREBY AGREED that the said annuity shall be deemed to be a debt due from the said partnership and shall be payable as such, and the said [*junior partner*] will in the event of the partnership assets being

(*b*) Stamp 10*s*.

insufficient for the payment thereof bear and pay such proportion thereof as under the said articles he is liable to bear and pay in respect of any other debt for the time being of the partnership.

IN WITNESS, &c.

[*Signatures and seals of both parties.*]

183.

AGREEMENT for forming a Syndicate to acquire and work a Patent (*c*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*patentee*] of &c. (hereinafter called the patentee) of the one part and the several persons whose names and addresses are hereunder written (hereinafter collectively referred to as the financing parties) of the other part.

WHEREAS the patentee is entitled free of incumbrances to the patent rights in the United Kingdom and the Isle of Man of and in an invention for [*specify the invention*] by virtue of letters patent No. —— of ——.

AND WHEREAS the patentee has requested the financing parties to assist him in developing, working and disposing of the said patent rights and it has been agreed that the parties hereto shall form a syndicate for the said purpose.

NOW IT IS HEREBY AGREED as follows :—

1. The patentee and the financing parties will together constitute a syndicate for the purposes and in the terms hereinafter mentioned under the name of the —— Syndicate.

2. Each of the financing parties shall forthwith pay into an account to be opened in the name of the syndicate with the —— bank at —— the sum hereinafter set opposite his name. Any of the financing parties failing to make such payment before the —— day of —— next may be excluded from all benefit under this agreement if the majority of the other financing parties so determine, but the failure of any of the financing parties to make due payment shall not affect the liability of any other financing party to pay the sum hereinafter set opposite his name.

3. The patentee will hold the said invention and patent rights in trust for the syndicate and will dispose of the same as the majority of the syndicate shall decide.

PROVIDED that the patentee shall not be required to sell or dispose of the same unless as the result of such sale or disposition the patentee shall receive under this agreement £—— at the least as his share of the proceeds thereof.

4. The affairs of the syndicate shall be conducted by the patentee and [*manager of syndicate*] as managers who shall both sign all cheques drawn upon the account of the syndicate at the said bank. In the event of either of them becoming unable to act as such manager as aforesaid the

(*c*) Stamp 6*d*.

majority of the syndicate shall elect one of the members of the syndicate to act in his place, and this provision shall apply in the event of any manager so appointed subsequently becoming unable or unwilling to act.

5. Any person appointed a manager pursuant to this agreement shall be reimbursed out of the funds of the syndicate for all out of pocket expenses and other liabilities incurred by him [and in case the funds of the syndicate shall prove insufficient for the purpose each of the financing parties will indemnify such manager against the said expenses and liabilities in proportion to the sum hereby agreed to be paid by him under clause 2 hereof].

6. Each manager shall be entitled to a commission of —— per cent. on the net profits of the syndicate earned during his tenure of office by way of remuneration for his services.

7. All payments out of the funds of the syndicate shall be made by cheque signed by both the managers. The managers shall keep proper books of account showing all receipts and payments on behalf of the syndicate and shall furnish to every member of the syndicate a balance sheet and profit and loss account once every six calendar months during the continuance of this agreement. Such balance sheet and profit and loss account when approved by a majority of the members of the syndicate shall be binding on all member of the syndicate.

8. The managers shall use their best endeavours to develop and sell the said invention and patent rights to the best advantage of the syndicate, and subject to any direction given to the managers by a general meeting of the syndicate the managers shall have an absolute discretion as to the manner, time and terms of such development and sale.

9. General meetings of the syndicate shall be held once at least in every month at such time and place as the managers shall by notice in writing posted to every member of the syndicate at least twenty-four hours before the meeting shall appoint. Any three members of the syndicate may at any time call a meeting of the syndicate in like manner.

10. A majority of members of the syndicate present and voting at any meeting duly called shall conclusively determine any question affecting the syndicate's affairs. Each of the financing parties shall have one vote for every £[50] subscribed by him and the patentee shall be entitled to —— votes.

11. The patentee shall be entitled to one [third] of the net profits of the syndicate. The residue of the said net profits shall be divided among the financing parties in proportion to the sums contributed by them towards the capital of the syndicate. All losses, if any, of the syndicate shall be borne by the financing parties in the like proportion, but no share of such loss shall be borne by the patentee.

12. The syndicate shall be dissolved when the said invention and patent rights have been sold or finally disposed of, or if a majority of the syndicate determine that it is advisable to wind up the affairs of the syndicate.

13. On such dissolution, if the same shall take place before the sale or final disposal of the said invention and patent rights, the funds of the

syndicate after payment of all expenses shall be divided among the financing parties in proportion to the sums contributed by them, and the said invention and patent rights shall become the absolute property of the patentee. If and when the said invention and patent rights shall be sold or finally disposed of the funds of the syndicate after such payment as aforesaid shall as to one [third] thereof belong to the patentee, and as to the residue thereof shall be divided among the financing parties in such proportion as aforesaid.

14. If any member of the syndicate shall die his legal personal representatives shall be alone entitled to his interest in the syndicate. Any member of the syndicate, or his legal personal representatives, may assign his or their interest therein or any part thereof to any other person or persons not members of the syndicate if he, or they, shall have first, in writing, offered the same to the managers for sale to or among the parties hereto at the best price the managers can obtain for the same and not less than the sum to be fixed in default of agreement between the selling party or parties, and the managers by arbitration of two arbitrators, one to be appointed by such selling party or parties, and the other by the managers or by an umpire appointed by such arbitrators, such arbitration to be conducted pursuant to the Arbitration Act, 1889, and no such sale shall have been effected within three calendar months of the date of such offer.

15. Nothing herein contained shall preclude the patentee from acquiring and dealing with patent rights in the said invention in any foreign country, but any improvement in or addition to the said invention shall, except as regards such foreign country, be held by the patentee in trust for the syndicate.

IN WITNESS whereof the undersigned have hereunto subscribed their signatures the day and year first above written.

[*Signature of the Patentee.*]

Signatures of financing parties.	Addresses.	Amounts subscribed.	Witnesses.

184.

AGREEMENT for Charging Partner's Deficiency of Capital on his Share in Business. Variations for a loan increasing the capital of the business (*d*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*senior partner*] of &c. of the one [first] part [*junior partner*] of &c. of the other [second] part [and [*lender*] of &c. of the third part].

(*d*) Stamp. *Ad valorem* mortgage duty on the advance. If the money is to be lent by a *third* person, it is proper, if not rendered absolutely necessary by the

WHEREAS the said [*junior partner*] has, at present, an unequal amount of capital in, but is entitled to, an equal share of the property and profits of the trade or business of [grocers] now carried on by him and the said [*senior partner*] at —— aforesaid and is now desirous of equalising the said amount of capital, and the said [*senior partner*] has at the request of the said [*junior partner*] agreed to advance him the sum of £—— for that purpose upon the terms and conditions hereinafter expressed.

[*Or if for a loan increasing the capital,* WHEREAS under or by virtue of articles of co-partnership between the said [*partners*] dated the —— day of —— they have express power to increase the capital for the time being employed in the trade or business of [grocers] carried on by them at —— aforesaid when and as they should mutually consider it necessary or desirable to do so and in consequence of their said trade or business having increased it has become necessary to increase their co-partnership capital.

AND WHEREAS the said [*junior partner*] not being, at present, prepared to pay his proportion thereof, the said [*senior partner*] has agreed to advance the same, upon the terms and conditions hereinafter expressed [*or* the said [*partners*] have applied to the said [*lender*] to advance them the same, which he has agreed to do, upon the terms and conditions hereinafter expressed].]

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of the sum of £—— being the deficiency aforesaid, now advanced and paid by the said [*senior partner*] [or the said [*lender*]] into the —— Bank, at —— aforesaid, to the credit of the capital account of the said co-partnership, on account and for the use of the said co-partners, and for or on behalf of the said [*junior partner*] as he hereby admits, the said [*junior partner*] hereby agrees and declares that such sum, together with interest thereon after the rate of £—— per cent. per annum, shall be a charge and lien upon his share of and in the property and profits of the said trade or business. [*If the money be lent by a third party,* but so that the same shall, as between the said parties, be considered to be part of the capital of the said co-partnership, and not entitle the said [*lender*] to any participation of the profit or loss in the said co-partnership business, or to any right to the capital or property thereof.] [*If the loan be made by one of the firm,* but subject to the stipulations in the said articles expressed in respect of any sum advanced or paid by either of the said [*partners*] for the purposes of the said co-partnership.]

2. The said [*junior partner*] further agrees with the said [*senior partner*] that he will pay or permit the said [*senior partner*] to receive, half-yearly, out of the said [*junior partner's*] share of the net profits of the said trade or business, one moiety [or third part] thereof, in part satisfaction of the said principal sum so advanced and with interest thereon,

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partnership articles, that the non-borrowing partner should be made a consenting party to the arrangement, for otherwise it might seriously affect his position or interest by having the interference of a third, and, perhaps, an adverse party. If, however, he is not made a party to the agreement, immediate and direct notice of the loan should be given to him.

as aforesaid, until the whole thereof shall be fully liquidated or satisfied, and that in the event of there being no such profits the same shall be repaid out of his share of, and in the said co-partnership funds and property, on the termination or sooner dissolution of the said co-partnership. [*If the money is lent by a third person,* The said [*junior partner*] hereby agrees with the said [*lender*] that he will pay to the said [*lender*] the said sum with interest thereon, after the rate aforesaid, within —— months next after he shall have made demand in writing requiring payment thereof, and also that, in the event of such non-payment, the said [*lender*] shall have full and free liberty at all reasonable times whilst the said principal and interest shall remain due to him, and after having given —— hours' previous notice to either of the said partners, to inspect in the presence of the said [*partners*] or one of them, the said co-partnership books, at the counting-house for the time being, or wheresoever the same shall then be, for the purposes of satisfying himself as to the solvency of the said co-partnership.]

3. In the event of there being no profits arising from the said partnership at the expiration of —— months from the date hereof, or if the said partnership shall be dissolved, or if the said [*junior partner*] shall become bankrupt, or shall compound or attempt to compromise with his creditors, or make any assignment of, or charge his interest in the said co-partnership, business, property or effects, or shall suffer any action or other proceeding to be commenced against him affecting the partnership property or his interest therein, then, and in either of such cases, the whole of the sum so advanced as aforesaid, or so much thereof as shall then remain due, with interest thereon as aforesaid, shall become payable to the said [*senior partner or lender*] in priority to any other charge or claim whatever thereon or thereto respectively (*e*).

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

PUBLISHING.

185.

AGREEMENT for Publication of a Book at Publisher's risk, Author and Publisher dividing net profits (*f*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*author*] of &c. (hereinafter called the author) of the one part and [*publisher*] of &c. (hereinafter called the publisher) of the other part.

(*e*) For an example of a loan on bond to a trader, and the claim to rank as creditor *pari passu* postponed until the debts of other creditors had been satisfied, see *Re Stone* (1886), 33 Ch. D. 541; *Re Hildesheim*, [1893] 2 Q. B. 357; *Re Mason, Ex parte Bing*, [1899] 1 Q. B. 810.

(*f*) Stamp 6*d*. As to the difference between an assignment of the copyright and a grant of the sole right of printing and publishing, see *Hole* v. *Bradbury* (1879), 12 Ch. D. 886, 895; *re Jude's Musical Compositions*, [1907] 1 Ch. 651. Under the Copyright Act, 1911 (1 & 2 Geo. 5, c. 46), s. 1 (2), "Copyright" means the sole right

WITNESSETH as follows :—

1. The author in consideration of the sum of £—— now paid to him by the publisher hereby agrees with the publisher that he shall be the sole [printer and] publisher [in the United Kingdom] of a [novel] which has been or is in course of being written by the author under the title of —— and is intended to consist of one octavo [*or* royal octavo *or* quarto] volume and to be intituled as aforesaid. The published price at which the said book is to be sold shall be not less than —— shillings per copy.

2. The author will, within —— days from the date hereof, supply and deliver, or cause to be delivered to the publisher so much of the manuscript of the said work as shall not be less than —— sheets and will revise the proof-sheets thereof with due dispatch, after they shall have been sent or delivered to him for that purpose, and will continue so to supply the said manuscript, from time to time, as the said publisher shall require, until the whole work shall be printed, unless prevented by illness, accident, or other unavoidable cause.

3. The author will not supply, sell, or give any copies or parts of the said work, except —— copies thereof, to any other person or persons whomsoever, and will not publish or cause to be published in the United Kingdom or any part thereof any copy or abridgment of the said book [but all dramatic rights shall belong to the author, who may at any time dramatise the same and exercise or assign all performing rights therein].

4. The publisher hereby agrees with the author that he will, on being duly and regularly supplied with the manuscript and the proof-sheets, properly revised as aforesaid, cause the said work to be properly printed on good paper, and duly bind and prepare the same for publication to the satisfaction of the author, and will publish the said work on or before the —— day of —— next, and furnish the author with —— copies thereof for his own use and benefit and as many more as he may require at the wholesale price, viz. a reduction of —— per cent. off the published price.

5. The publisher shall bear and pay all losses, costs, and expenses whatsoever of and attending the [printing and] publication, including paper, printing, pressing, binding, and warehousing.

6. The first edition, which shall be published on or before the —— day of —— shall consist of —— copies [*or* not less than —— copies or more than —— copies]. The publisher shall have the option of publishing a second and subsequent editions upon the terms of this agreement [including a cash payment of £—— to the author on exercising such option in respect of each edition].

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to produce or reproduce the work in any material form, to perform the work in public, and in the case of an unpublished work, to publish it, and includes the sole right in the case of a novel to dramatise it or reproduce it by means of cinematograph films ; see *Serra* v. *Famous Lasky Film Service*, [1921] W. N. 347 ; *Barstow* v. *Terry*, [1924] 2 Ch. 316. Registration at Stationers' Hall is no longer necessary to enable the owner of Copyright (or an assignee of any right comprised in copyright) to sue in respect of an infringement hereof. For other forms relating to coyyright, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 6, pp. 399 *et seq.*

7. The copyright in the said book shall remain vested in the author, who will indemnify the publisher against all claims for infringement of copyright or libel.

8. The publisher will at all times keep proper books of account relating to the said book and allow the author to inspect the same at all reasonable times, and also will, at Midsummer and Christmas, in every year, until the whole edition shall be exhausted, render to the author a full, and true, account of and attending the [printing and] publishing and advertising the said work, and of all the expenses, sales, and proceeds thereof.

9. From and out of the proceeds of the said work, the publisher may, in the first place, deduct, retain, and pay himself the expenses of the paper [printing] binding, advertising, warehousing, and insuring the stock of unsold copies of the said work and, in the next place, a commission of £—— per cent. on the amount realised, after making the usual trade allowances [of £—— per cent. PROVIDED ALWAYS that the amount deducted or retained by the publisher under this clause shall not in any case exceed —— shillings per volume].

10. After deducting and retaining the outgoings and expenses aforesaid, including the cost of the author's copies, the publisher shall pay to the author one —— part of the net proceeds of the said book.

11. This agreement shall not be assignable by the publisher without the consent in writing of the author.

12. If —— copies of the book shall not be sold within six months of the date of first publication either party may determine this agreement by notice in writing to the other of them.

13. The author may determine this agreement by notice in writing if a receiving order is made against the publisher (*g*).

14. If this agreement shall be determined under any clause herein contained the author shall be entitled to purchase all copies then unsold at a valuation [*or* at actual cost price to the publisher]. If the author shall refuse or neglect within one week of such determination to exercise his rights under this clause the unsold copies shall be sold by the publisher and the proceeds shall be divided as mentioned in clause 10 hereof.

IN WITNESS, &c.

[*Signatures of both parties.*]

(*g*) But if the author does not determine the agreement, the trustee in bankruptcy of the publisher cannot sell any copies of the work except on the terms of paying to the author such share of profits as would have been payable by the publisher (Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 60, which alters the former law as laid down in *Ex parte Deeping, re Grant Richards*, [1907] 2 K B. 33).

186.

AGREEMENT for Publication of a Book, Publisher paying Royalties (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 185, p. 340, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The author will write a [novel] consisting of not less than —— words under the title of [*title*] and will unless prevented by illness or other unavoidable cause deliver the manuscript to the publisher for printing so that the completed manuscript may be in the publisher's hands on the —— day of ——. The author will promptly revise and correct all proof sheets submitted to him by the publisher.

2. The publisher will, on or before the —— day of —— next, print and publish the said book, entirely at his own expense and risk, in all things, on being duly supplied by the said author, from time to time, with sufficient portions of the manuscript thereof, and the proof sheets duly revised.

3. The first edition of the said book shall consist of [1000] copies, and the said book shall be published in one volume at the price of —— shillings each net. The paper, binding, type and embellishments shall be in accordance with specimens already approved by the author [*or* in accordance with those adopted for other volumes of the —— series].

4. The publisher shall have the right to publish after the expiration of one year from the date hereof a cheap edition of the said book at the price of [two shillings] a copy, such edition not to exceed [10,000] copies.

5. The publisher shall pay to the author a royalty of [one] shilling in respect of every copy of the first edition sold excluding copies for review or supplied to the author [but thirteen copies to be counted as twelve] and a royalty of £[5] for every thousand copies sold of the cheap edition. Such royalties shall be paid one month after the dates hereby fixed for rendering accounts by the publisher.

6. During the continuance of this agreement the author shall not publish or authorise the publication of any copy or abridgment of the said work, but the author shall be at liberty to dramatise the same and exercise or assign the performing rights therein.

7. The publisher shall keep proper books of account of all receipts and expenditure in respect of the said book and render a proper account of the same to the author at the end of six months after the date of publication and of every subsequent six months, and shall at all reasonable times

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(*h*) Stamp 6*d*. This form of agreement seems preferable to an assignment of the copyright in consideration of a covenant to pay royalties, at any rate where the publisher has the power to assign over to a successor in business; for the latter will not be bound by mere notice of the covenant, to which he was a stranger (*Barker* v. *Stickney*, [1919] 1 K. B. 121); though it will be otherwise if the royalties were charged by the original assignment on the proceeds or produce of the copyright (*Macdonald* v. *Eyles*, [1921] 1 Ch. 631).

produce all books of account and vouchers for the inspection of the author who shall be entitled to make copies of or extracts from the same for his own use.

8. [*Clause as to copyright as in Form* 185, *clause* 7, p. 342, *supra.*]

9. [*Clause as to assigning as in Form* 185, *clause* 11, p. 342, *supra.*]

10. The author shall receive gratis the first —— copies of the said book, when printed, [properly] bound [in cloth] for his own use and benefit.

11. The author may determine this agreement if the publisher shall become bankrupt or shall make default in payment of royalties for [one] calendar month after the respective dates hereby appointed for payment of the same.

12. On determination of this agreement under clause 11 hereof all copies of the said book in stock shall at the author's option be taken over by him at a fair valuation, and if the author shall fail to exercise such option within one month after notice requiring him so to do shall be sold as a remainder and the publisher shall receive one-half of the amount of such valuation or proceeds of sale.

13. This agreement shall extend only to the United Kingdom.

IN WITNESS, &c.

[*Signatures of both parties.*]

187.

AGREEMENT for Printing and Publishing a Book at Author's risk (*i*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*author*] of &c. (hereinafter called the author) of the first part [*stationer*] of &c. (hereinafter called the stationer) of the second part [*printer*] of &c. (hereinafter called the printer of the third part and [*publisher*] of &c. (hereinafter called the publisher) of the fourth part.

WHEREAS the author desires to publish an edition of his work entitled The ——.

NOW THESE PRESENTS WITNESS that the several parties hereto, of the second, third, and fourth parts, severally agree with the author that they will respectively perform the several works to be performed by them respectively for publishing the said book as hereinafter mentioned, namely :—

1. The stationer will supply the printer at his printing-office in —— Street at —— with all such paper as the publisher shall select for the said work on or before the —— day of —— next.

2. The printer will, on having the necessary and proper paper supplied as aforesaid, and the manuscript of the said work also duly supplied to

(*i*) Stamp 6*d*.

him when and as required and the proofs and revised sheets duly returned and completed within —— days after the delivery thereof respectively, print [or cause to be printed] —— sheets thereof per week until the whole of such printing shall have been performed, and deliver the same to the publisher in sheets ready for binding and publishing on or before the said —— day of —— next.

3. The publisher will, on receiving the said printed sheets of the said work from the said printer on or before the last-mentioned day, forthwith cause them to be bound subject to the approval of the author, and the said work to be published, advertised and offered for sale in the United Kingdom in all respects according to the usual course in the publishing [and bookselling] business in the case of books of a similar nature.

4. The said work shall be printed in such type bound in such manner and published in —— volumes or parts and at such price as the author and publisher shall mutually agree, and the author shall supply the manuscript to the publisher either altogether or in such portions as shall from time to time be required by the printer as aforesaid.

5. The publisher shall receive the whole proceeds of the said work, and after deducting therefrom all inevitable losses and damages and the actual cost and expenses of and attending the printing and publishing it and the commission hereinafter mentioned shall pay the residue thereof to the author.

[5A. *Or, if it be intended that the stationer and printer shall be first paid out of the proceeds*, The stationer and printer shall be paid by the publisher their proper charges [for the materials supplied and the work performed by them respectively] rateably out of the first proceeds arising from the sale of the said book together with interest on the floating balance, if any, due to them respectively, at the rate of £—— per cent. per annum, and if any portion of their respective claims shall at the expiration of one year next after such publication remain unpaid, such portion shall be borne and paid by the author, and in default of payment thereof by him within —— days next after the expiration of notice to pay the same the stationer and printer may sell [either by public auction or private contract] a sufficient part of the then unsold copies of the said work, and out of the proceeds pay the balance then owing to them respectively.]

6. The publisher shall receive by way of remuneration a commission of —— per cent. on the total net amount of all sales and shall account to the author for all trade discounts.

7. The publisher shall furnish the author with —— proofs of each sheet of the said work, and —— clean and perfect copies of each revised sheet thereof, and also within —— days after the publication with —— perfect copies thereof bound in cloth [*or* boards] for his own use.

8. The publisher shall be at liberty to expend the sum of £—— in advertising the work, and be allowed the same out of the proceeds of the sale thereof, but no part of such sum shall be expended in advertising in the publisher's own publications, in all of which the publisher shall be bound to advertise the said book free of charge.

9. The publisher shall send at least —— copies of the book to such magazines and papers for review as the author thinks fit, but shall not receive commission on such copies or on any copies supplied to the author under clause 7 hereof.

10. [*Clause as to accounts as in Form* 185, *clause* 8, p. 342, *supra.*]

11. [*Clause as to copyright as in Form* 185, *clause* 7, p. 342, *supra.*]

12. This agreement shall not be assignable by the publisher [except to such person or persons or company as may succeed to the business of the publisher].

13. The author shall not publish, or cause or permit to be published, any other edition of the said work until the said edition is exhausted and the claims of the other parties hereto shall have been fully satisfied.

IN WITNESS, &c.

[*Signatures of both parties.*]

188.

AGREEMENT between Publisher and Editor (*k*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*publisher*] of &c. (hereinafter called the publisher) of the one part and [*editor*] of &c. (hereinafter called the editor) of the other part.

WHEREAS the editor has edited [annually] for the publisher a book entitled [*title of the work*].

NOW IT IS HEREBY AGREED as follows :—

1. The editor shall, so long as he shall properly perform the duties of editor of the said book, be the sole editor of the future [annual] editions thereof according to the best of his judgment and ability and at the times to be appointed by the said publishers, and will use his best exertions, as such editor, to improve and promote the success of such book.

2. In consideration of his services the publisher will pay the editor annually on the —— day of —— the sum of £—— for each [annual] edition of the said book, and also all such expenses as he may be put to in the performance of such services or in respect thereof or of the said book.

3. All articles and subject-matter which have been and shall from time to time be introduced by the editor into the books so to be edited by him annually as aforesaid, from work of his own compilation, composition, or preparation, shall, as regards copyright, belong to him [*or* to the publisher].

4. The editor will not during the continuance of this agreement, without the consent in writing of the publisher, either edit or assist in editing any rival or similar work to the said book.

5. The editor shall at all times exercise his sole discretion as to the subject-matter to be introduced by him into the said book [subject, however, to the approval of the said publisher].

(*k*) Stamp 6*d.*

6. The publisher shall from time to time duly and regularly supply the editor with all the assistance in his power in the course of such services, and with proof-sheets and revises of the said book, in duplicate, and that the editor shall be supplied annually with —— fair copies of the said book, well bound, for his own use and benefit.

7. The said publisher shall bear all expenses of and attending the [annual] publication of the said book, and shall be solely entitled to the profits thereof.

8. Either party may determine this agreement by [three] calendar months' previous notice in writing.

IN WITNESS, &c.

[*Signatures of both parties.*]

189.

AGREEMENT for Executing Engravings (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*employer*] of &c. of the one part, and [*engraver*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*engraver*] will engrave, execute, and wholly finish on or before the —— day of —— next, in a workmanlike and artistic manner according to the modern art of engraving, and to the [reasonable] satisfaction of the said [*employer*], the several landscapes [*or* portraits] enumerated and specified in the schedule hereunder written for the purpose of being used in a book entitled —— [*stating the title*], on the drawings thereof being supplied by the said [*employer*], when and as the same shall be required by the said [*engraver*].

2. The said [*engraver*] will submit each copy or impression of the said engravings to the said [*employer*] for his inspection and approval, and, when and as they respectively shall be finally finished, deliver the same to the said [*employer*] in a fit state for being printed off and published every —— days until the whole work shall have been completed.

3. The said [*engraver*] will, at his own expense in all things, find and provide all necessary, suitable and proper sheets or plates of copper [*or* steel] for the purpose of such engravings and all other materials required for the purpose thereof.

4. The said [*employer*] will pay, or cause to be paid to the said [*engraver*], within —— days next after the final delivery of each of the said engravings satisfactorily executed and finished as aforesaid, the sum of £—— for each respective plate, which shall then become the sole and absolute property of the said [*employer*].

5. If at any time before the said engravings shall have been completed the said [*employer*] shall give notice, in writing, to the said [*engraver*] that he will not require any more of them to be executed by

(*l*) Stamp 6*d*.

him than such as shall then have been already completed and delivered and such as shall then be in course of execution or completion, then this contract shall cease on the completion and delivery of such last-mentioned engravings, and on payment by the said [*employer*] of the stipulated price for each of such engravings.

6. In case any dispute or difference shall arise between the said parties respecting the said works or otherwise under these presents the same shall be referred to two competent and indifferent persons, being artists, one to be chosen by each party hereto or their umpire, such arbitration to be conducted in all respects in accordance with the Arbitration Act, 1889.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of pictures to be engraved.*]

[*Signatures of both parties.*]

SALE OF LAND.

190.

CONDITIONAL OFFER of Property for Sale by Private Contract (*m*).

To Mr. ——

[*Address.*]

[*Date.*]

SIR,

I make you an offer of the —— estate at —— on the undermentioned terms, subject to a formal contract to be prepared by my solicitors and signed by both parties (*n*).

I shall be ready to produce to you a map and terrier of the estate to enable you to judge of the value.

The —— Estate consists of a mansion with domestic offices, yards, garden, and orchards, situate at &c. and now in the occupation of the present proprietor and of a farm-house with homestead, garden, orchard, and about —— acres of arable, meadow and pasture land, now in the occupation of [*tenant*], as a yearly tenant, at a rental of £——.

1. The lowest price is £——.

2. The purchaser is to take the fixtures and fittings in the mansion, farm-house, and domestic offices at a fair valuation.

3. The purchaser must pay me a deposit of £—— per cent. of his purchase-money on signing the contract, and pay the balance of the price

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(*m*) No stamp.

(*n*) *Von Hatzfeldt-Wildenburg* v. *Alexander*, [1912] 1 Ch. 284; *Rossdale* v. *Denny*, [1921] 1 Ch. 57; *Coope* v. *Ridout*, [1921] 1 Ch. 291; *Chillingworth* v. *Esche*, [1924] 1 Ch. 97. As to a contract by correspondence, see the Encyclopædia of Forms, 2nd Edn. vol. 14, p. 21.

and the amount of the valuation at the expiration of —— calendar months from the date thereof, with interest at £—— per cent. per annum on such balance and valuation, if not then paid.

4. The vendor will furnish, at his own expense, within —— days after signing the contract, an abstract of his title to the estate for the last —— years.

5. The purchaser is to have a conveyance of the fee-simple at his own expense, on payment of the remainder of the purchase-money.

6. The purchaser may, if desired, have early possession of the mansion and become immediately entitled to the rent and profits of the farm and lands, provided he will deposit the remainder of his purchase-money on his and the vendor's joint account in the hands of [bankers], of &c. for investment in ——, at the risk of the purchaser, till the completion of the purchase, when it is to be paid over to the vendor, but without prejudice to the vendor's right to receive interest thereon according to the third paragraph hereof.

7. The vendor is not to be called on to produce any evidence to substantiate the statement which has been made from the tithe survey, relative to the nature or extent of the lands or the statement and description in the accompanying particulars which have been made from the best information the vendor has been able to procure.

Lastly, if any error shall be found in the particulars not provided for by the last condition, it is not to vitiate the sale, but the vendor is to make compensation to be ascertained by two referees, one to be chosen by each of them, the vendor and the purchaser, or by their umpire in case they disagree.

[*Signature of vendor or his agent.*]

191.

AGREEMENT for Sale according to the Conditions of a Previous Auction (*o*).

I [*purchaser*] of &c. hereby agree to purchase, by private contract, the property described [as Lot ——] in the annexed particulars of sale subject to the annexed conditions of sale, so far as the same may be applicable to a sale by private contract, at the sum of £—— and I have paid the sum of £—— by way of deposit on the purchase-money, according to such conditions of sale which I agree to fulfil in all other respects on my part, so far as aforesaid. And I [*auctioneer*] as agent for and on behalf of the vendor, Mr. —— of &c. hereby agree to sell the said property [or lot] to you, the said [*purchaser*] accordingly, and hereby acknowledge the receipt of the said deposit.

(*o*) Stamp 6*d*.

[The day for completion of the purchase within the meaning of the said conditions shall be the —— day of —— next.]

Dated the —— day of ——.

[*Signatures of auctioneer and purchaser.*]

192.

AGREEMENT for Sale of Freeholds by an Absolute Owner Embodying Statutory Conditions (*p*).

THIS AGREEMENT made the —— day of —— BETWEEN —— of —— (hereinafter called the vendor) of the one part and —— of —— (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the fee simple in possession of the premises described in the schedule hereto (subject to the covenants and stipulations hereinafter referred to) but otherwise free from incumbrances at the price of £—— of which £—— by way of deposit has been paid to —— the vendor's agent as stakeholder.

2. The balance of the purchase money shall be paid and the purchase completed at the office of Messrs. —— of —— the vendor's solicitors on or before the —— day of ——, whereupon the purchaser shall have a proper assurance of the said premises from the vendor and shall be let into possession or receipt of the rents and profits (*q*).

3. The vendor's title shall commence with a conveyance on sale dated &c. (or some other good root of title, see clause 4, p. 352, *infra*).

4. The property is sold subject to the restrictive covenants contained in a conveyance dated &c., a copy whereof has been supplied to the purchaser (*r*).

5. The property is sold and will be conveyed subject to the tenancies mentioned in the schedule hereto and to all rights of way water and other easements and outgoings (if any) (*s*).

6. The purchaser shall admit the identity of the property purchased by him with that comprised in the documents of title thereto upon the evidence (if any) afforded by a comparison of the descriptions contained herein and in such documents respectively, but the purchaser shall be entitled to a statutory declaration at his expense that the property has been enjoyed consistently with the abstracted title for the past twelve years.

(*p*) Stamp 6*d*.

(*q*) Unless the contrary is stated a purchaser is entitled to presume that vacant possession will be given (Encyclopædia of Forms, 2nd Edn. vol. 14, p. 32).

(*r*) Restrictive covenants must be disclosed, notwithstanding that the same may be registered as a land charge under the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (1), Class D (ii). As to the discharge or modification of restrictive covenants, see the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 84.

(*s*) See p. 354 (note (*q*)).

7. No error omission or misdescription shall annul the sale or be the subject of compensation on either side.

8. The purchaser shall upon completion of the purchase repay to the vendor all moneys expended by him in complying with any requirements of any local authority in respect of the property or of the sewers roads streets or passages adjoining the same of which notice shall be given to the vendor after the date hereof, and shall indemnify the vendor against any such requirements which shall not have been fully complied with. The vendor shall immediately upon the receipt by him of any such notice as aforesaid inform the purchaser thereof and shall not expend any money in compliance with any such requirement except upon the purchaser's neglect to do so (*t*).

9. The statutory form of conditions of sale 1925 shall apply to this contract (*a*).

AS WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Short description of the property with particulars of tenancies* [*if any.*]]

[*Signatures of both parties.*]

193.

AGREEMENT for Sale of Freeholds by absolute Owner in ordinary form. Variations for benefit of purchaser (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the fee-simple in possession free from incumbrances of —— ALL THOSE hereditaments situate at —— in the county of —— which are more particularly described in the [First] Schedule hereunder written, and are delineated on the plan hereto annexed and thereon coloured [blue] (*c*).

2. The price for the said purchase is £—— of which £—— has been paid by way of deposit to the vendor [*or* to [*stake-holder*] as a stakeholder] by the purchaser on the execution of this agreement and the balance shall be paid on the day hereinafter fixed for completion. [The said deposit shall be placed on deposit in the —— Bank by the said stake-

(*t*) As to expenses charged on the property by a local authority, see the Encyclopædia of Forms, 2nd Edn. vol. 14, p. 156.

(*a*) These conditions are printed in the Encyclopædia of Forms, 2nd Edn. vol. 19, p. 701, and provide for the following matters :—(1) Date fixed for completion ; (2) Place for completion ; (3) Possession and apportionment of outgoings ; (4) Interest on purchase money ; (5) Delivery of abstract ; (6) Requisitions ; (7) Power to rescind ; (8) Preparation of conveyance ; (9) Power for vendor to resell after notice.

(*b*) Stamp 6*d*.

(*c*) For other descriptions of parcels, see pp. 309 *et seq.*, *ante*.

holder and all interest received in respect thereof up to the day fixed for completion shall belong to the purchaser.]

3. The purchaser shall also pay to the vendor the value of all timber (*d*) trees and growing wood down to the value of one shilling a stick inclusive [and of the fixtures in the house], such value to be ascertained by [*valuer*] of &c. or in his default at a fair valuation. The valuation shall be made at the [joint] expense of the [vendor and] purchaser and the sum so ascertained shall for all purposes of this agreement be added to the said purchase price.

4. The vendor shall deliver to the purchaser or his solicitor [within [fourteen] days (*e*) from the date hereof] an [*or* a full and sufficient] abstract of title (*f*), commencing with a conveyance on sale dated the —— day of —— and made between [*parties*] *or* with a mortgage [in fee-simple] dated the —— day of —— and made between [*parties*] (*g*).

Or, with the will dated the —— day of —— of [*testator*] who died on the —— day of —— whereby the property was specifically devised under the following description, viz. [*add description in will*].

Or, with the will dated the —— day of —— of [*testator*] who died on the —— day of —— having devised the property as part of his residuary real estate and the purchaser shall assume the seisin in fee simple in possession by the said [*testator*] of the property at the [respective] date[s] of his [said will (*h*) and] death and that the property was duly devised as aforesaid by the said will (*i*).

Or, with a voluntary settlement [*or* conveyance] dated the —— day of —— and made between [*parties*] and the purchaser shall assume that the said settlement [*or* conveyance] is valid and effectual for all purposes.

(*d*) As to the meaning of "timber," see *Honywood* v. *Honywood* (1876), L. R. 18 Eq. 306; *Dashwood* v. *Magniac*, [1891] 3 Ch. 356; and *re Tower's Contract*, [1924] W. N. 331.

(*e*) In the absence of a stipulation defining the time for delivery of the abstract, the vendor must deliver the abstract within a reasonable time (*Compton* v. *Bagley*, [1892] 1 Ch. 313, 321). If he fails to deliver it within the time specified, he cannot hold the purchaser bound by the condition limiting the time for requisitions (*Upperton* v. *Nickolson* (1871), L. R. 6 Ch. 436).

(*f*) As to the meaning of "full and sufficient abstract," see *Blackburn* v. *Smith* (1848), 2 Exch. 783. The abstract should be as perfect as possible in the sense that it should contain the effect of every instrument forming part of the title (*Oakden* v. *Pike* (1865), 34 L. N. (N.S.) Ch. 620; *Pryce Jones* v. *Williams*, [1902] 2 Ch. 517), but it is not necessary or proper to include in the abstract an instrument relating only to interests or powers which will be overreached by the conveyance (Law of Property Act, 1925, s. 10).

(*g*) As to a mortgage being a good root of title, see Strahan's Conveyancing, 3rd Edn. p. 65.

(*h*) The words in square brackets are unnecessary if the testator's will was made after the 1st day of January, 1838. Since that date a will passes all the real estate of a testator at his death (Wills Act, 1837 (7 Will. 4 & 1 Vict. c. 26), s. 24).

(*i*) A condition requiring a purchaser to assume a fact which the vendor believe to be true is not misleading even though the condition covers a flaw which goes to the root of the title (*Re Sandbach and Edmondson's Contract*, [1891] 1 Ch. 99; *Blaiberg* v. *Keeves*, [1906] 2 Ch. 175; and contrast *Beyfus* v. *Lodge*, [1925] Ch. 350).

Or, with a principal [*or* subsidiary] vesting deed dated the —— day of —— and made between [*parties*]. The purchaser shall not require the production or an abstract [of the principal vesting deed or] of the trust instrument (*k*).

Or, with a deed of appointment dated the —— day of —— under a previously subsisting power and the purchaser shall not require the production or an abstract of the deed creating the said power but shall assume without evidence that such power was valid and subsisting and duly exercised by the said appointment.

Or, with a conveyance dated the —— day of —— executed pursuant to an order of the High Court of Justice. The purchaser shall assume [on production of an office copy of the said order] that the said conveyance was valid in all respects and binding on all persons then interested in the said property.

Or, with a conveyance by way of exchange dated the —— day of —— and the purchaser shall not inquire into the title of the land given in exchange but shall assume that the said exchange was valid in all respects.

Or, with a conveyance on sale dated the —— day of —— of the property by the —— Railway Company. The purchaser shall assume that the said Company was entitled to sell and convey the property at the date of the said conveyance as superfluous land in the manner and to the persons in which and to whom the same was so conveyed.

Or, with a conveyance on sale dated the —— day of —— by the trustees of a charity. The purchaser shall assume [on the evidence afforded by the recitals in the said conveyance] that the persons who purported by the said deed to convey the property had full power so to do and to give receipts for the purchase-money therefor without any order of the Court or of the Charity Commissioners.

Or, with an inclosure award made the —— day of —— under the Inclosure Acts. The purchaser shall assume without inquiry that the said award validly vested the fee simple in the allottee subject only to the reservations and restrictions stated therein which were as follows [*state the reservations if any contained in the award*] and the purchaser shall not inquire into the [prior] title of the lands in respect of which such award was made (*l*).

5. The purchaser shall deliver in writing to the vendor's solicitor his requisitions and objections, if any, in respect of the title to or description of the property sold or otherwise arising out of this agreement within [fourteen] days from the delivery of the abstract and his observations, if any, on any replies to such requisitions and objections within [seven] days after the delivery of such replies. Subject only to the requisitions, objections and observations, if any, so delivered (*m*) the purchaser shall be

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(*k*) See the Settled Land Act, 1925, s. 110.

(*l*) The alternative forms contained in this clause comprise the documents usually offered as the commencement of title to freeholds. For other conditions as to title, see the Encyclopædia of Forms 2nd Edn. vol. 14, p. 396 *et seq.*

(*m*) This does not preclude the purchaser from making an objection going to the root of the title (*e.g.* that the vendor has no title) although the time for requisitions

deemed to have accepted the vendor's title on the day of the delivery of the said abstract. [The abstract shall not be deemed defective if it supplies information suggesting a requisition or objection (*n*)]. For all the purposes of this clause time shall be of the essence of the contract (*o*).

[6. The property is sold subject to the tenancies specified in the Second Schedule hereto and all claims thereunder (*p*).]

7. The property is sold subject to all chief, quit and other rents, incidents of tenure, and outgoings (if any) and to all easements and rights of light and all obligations as to fences roads and the like if any such there be (*q*) and in particular [*add particulars of any easement rent or the like known to exist, e.g.* a public right of way as shown by a dotted line from the point marked A on the said plan to the point marked B thereon] (*r*).

8. The vendor shall not be required to furnish the purchaser with any evidence of the identity of the property sold with that comprised in the abstracted documents except such as is afforded by the documents themselves [and a statutory declaration to be made if required [at the purchaser's expense] by a credible person well acquainted with the property that the enjoyment thereof for the past [20] years has been consistent with the abstracted title (*s*)].

9. The description herein contained of the property sold is believed to be and shall be accepted as correct and any error, omission or misdescription herein contained shall not invalidate the sale nor shall either party require compensation of the other in respect thereof (*t*) [*or*, but if any such error, omission or misdescription shall be discovered before (*a*)

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has expired (*Want* v. *Stallibrass* (1873), L. R. 8 Ex. 175, 181; *Re Tanqueray Willaume and Landau's Contract* (1882), 20 Ch. D. 465, 473; and see *Pryce Jones* v. *Williams*, [1902] 2 Ch. 517).

(*n*) The words in brackets are prejudicial to the purchaser, inasmuch as they modify his right to delivery of a full and complete abstract before the period allotted for making requisitions commences. See *Hobson* v. *Bell* (1839), 2 Beav. 17, 24.

(*o*) See Law of Property Act, 1925, s. 41.

(*p*) Notice of a tenancy is notice of the tenant's rights, not of the title of the landlord (*Hunt* v. *Luck*, [1902] 1 Ch. 428, C. A.).

(*q*) A general clause of this nature does not relieve the vendor from the duty of disclosing any easements or rights known by him to exist (*Heywood* v. *Mallalieu* (1883), 25 Ch. D. 357; *Re Nottingham Patent Brick and Tile Co.* v. *Butler* (1886), 16 Q. B. D. 778). Unusual terms of tenancy should also be disclosed (*Caballero* v. *Henty* (1874), 9 Ch. App. 447; *Re Derby (Earl) and Fergusson's Contract*, [1912] 1 Ch. 479.

(*r*) See *Yandle & Sons* v. *Sutton*, [1922] 2 Ch. 199; *Stoney* v. *Eastbourne Rural Council and Devonshire (Duke)*, [1926] 95 L. J. Ch. 312.

(*s*) If the descriptions in the abstracted documents do not in fact identify the property, the vendor, notwithstanding such condition as above, is bound to furnish some sufficient evidence of identity (*Curling* v. *Austin* (1862), 2 Dr. & Sm. 129, 135; *Flower* v. *Hartopp* (1843), 6 Beav. 476, 481).

(*t*) A condition of this kind does not cover material misstatements of acreage (*Jacobs* v. *Revell*, [1900] 2 Ch. 858), or substantial defects (*Re Puckett and Smith's Contract*, [1902] 2 Ch. 258); or defects of title (*Debenham* v. *Sawbridge*, [1901] 2 Ch. 98; *Re Beyfus and Masters' Contract* (1888), 39 Ch. D. 110); nor in general does it apply where the property which the vendor offers to convey is "substantially different" from that sold (*Flight* v. *Booth* (1834), 1 Bing. N. C. 370; and see *Lee* v. *Rasdon*, [1917] 1 Ch. 613; *Re Courcier and Harrold's Contract*, [1923] 1 Ch. 565).

(*a*) In the absence of provision limiting the time for recovery of compensation, the purchaser can under an express provision for compensation recover even after

[or within [three] months after] completion compensation therefor shall be paid by the vendor or purchaser as the case may be the amount thereof to be ascertained in case of dispute by two arbitrators (one to be appointed by the vendor and one by the purchaser) and their umpire pursuant to the Arbitration Act, 1889, but this clause is to be without prejudice to the right of the vendor to rescind under clause 10 hereof at any time before the appointment by the purchaser of an arbitrator].

[9A. If any document forming part of the title and executed on or before the 16th of May, 1888 (*b*), shall be unstamped or insufficiently stamped the purchaser shall stamp the same at his own expense if he requires the same to be done.]

[9B. The non-registration in Middlesex [*or* Yorkshire] of any document of title shall not be a ground of objection to the title] (*c*).

[9C. No objection shall be made on the ground of the non-production of any original document of which the vendor furnishes to the purchaser an attested [*or* certified] copy.]

[9D. Recitals, statements and descriptions in any document dated more than [12] years (*d*) before the date of this agreement shall be conclusive evidence of every matter and thing therein recited or stated [and of the contents and due execution of any document therein recited which is not in the possession or under the control of the vendor] (*e*).]

10. If the purchaser shall make [*or* insist upon (*f*)] any objection

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completion (*Palmer* v. *Johnson* (1884), 13 Q. B. D. 351). As to the effect of the absence of a contract for compensation, see *Clayton* v. *Leech* (1889), 41 Ch. D. 103; *Joliffe* v. *Baker* (1883), 11 Q. B. D. 255. Generally as to the effect of contracts for compensation, see *Re Terry and White's Contract* (1886), 32 Ch. D. 14.

(*b*) See Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 117. Any condition of sale precluding objections on the ground of absence or insufficiency of stamps on a document executed after the 16th of May, 1888, and undertakings for assuming liability on such grounds are made void by this section.

(*c*) See Middlesex Registry Act, 1708 (7 Anne, c. 20); Yorkshire Registries Act, 1884 (47 & 48 Vict. c. 54), and Bedford Level Act, 1663 (15 Car. 2, c. 17). The Middlesex Registry is now part of the Land Registry: see 54 & 55 Vict. c. 64. Under the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 11, only instruments which operate to transfer or create legal estates require registration in Middlesex and Yorkshire. See also the Land Charges Act, 1925 (15 Geo. 5, c. 22), s. 10 (6), as amended by the Law of Property (Amendment) Act, 1926 (16 & 17 Geo. 5, c. 11), Sched., and the Land Charges Act, 1925, s. 18.

(*d*) See Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 45 (6) (10), which makes recitals, statements, and descriptions of facts, matters, and parties contained in instruments, etc., twenty years old at the date of the contract unless proved to be inaccurate, sufficient evidence of the truth of such facts, matters and descriptions.

(*e*) The above special conditions which are frequently inserted in contracts of sale are merely examples. It is impossible within the scope of this work to give any adequate number of the special conditions which are often required on the sale of land. Such special conditions require to be carefully framed after examination by the vendor's advisers of his title. Numerous examples will be found in the Encyclopædia of Forms and Precedents, 2nd Edn. vol. 14, pp. 391 *et seq.*

(*f*) As to the distinction between "make" and "insist on," see *Re Starr Bowkett Building Society and Sibun's Contract* (1889), 42 Ch. D. 375; *Greaves* v. *Wilson* (1858), 25 Bea. 290. See generally as to the right of rescission under an express power, *Re Jackson and Haden's Contract*, [1906] 1 Ch. 412; *Re Simpson and Moy's Contract* (1908), 53 Sol. J. 376; *Re Deighton and Harris' Contract*, [1898] 1 Ch. 458; *Quinion* v. *Horne*, [1906] 1 Ch. 596; *Smith* v. *Wallace*, [1895] 1 Ch. 385.

or requisition which the vendor on any ground whatever [*or* on the ground of expense, delay, or some other reasonable ground] shall be unable or unwilling to remove or comply with the vendor may by notice in writing to the purchaser or his solicitor [require the purchaser to withdraw the same, and if the same shall not be withdrawn in writing within [seven] days from the date of such notice may by a like notice] rescind this agreement [upon repaying to the purchaser [*or* releasing all his claims upon] the said deposit [and all interest earned thereby] in full satisfaction of all claims by the purchaser under this agreement] and the purchaser shall thereupon return to the vendor the abstract and all papers and documents in his possession belonging to the vendor in connection with the said sale. The vendor's power of rescission under this clause shall not be affected by any attempt to remove or satisfy such objection or requisition or by any negotiation or litigation [or adverse judicial decision] relating thereto (*g*).

[11. The vendor shall bear all the expense of the production to the purchaser's solicitors of any documents or other evidence of title [except certificates of deaths] not in the possession of himself or his trustee or mortgagee (*h*)].

12. Completion of the purchase shall take place at the office, No. —— Street —— of Messrs. —— the vendor's solicitors, on the —— day of —— next, and upon the purchaser paying the [balance of the] said purchase price [and releasing the said deposit] to the vendor (*i*), the vendor shall execute a proper assurance of the property to the purchaser, such assurance to be prepared and perfected save as to the execution thereof by the vendor by and at the expense of the purchaser who shall deliver at the office of the vendor's solicitor a draft thereof for approval at least ten days, and the engrossment thereof at least five days before the date fixed for completion (*k*).

(*g*) Apart from condition the vendor may lose his power of rescission by answering the requisition (*Morley* v. *Cook* (1842), 2 Hare, 106; *Tanner* v. *Smith* (1840), 10 Sim. 410). As to the effect of litigation, see *Isaacs* v. *Towell*, [1898] 2 Ch. 285; *Re Spindler and Mear's Contract*, [1901] 1 Ch. 908; and as to adverse judicial decision, see *Re Arbib and Class*, [1891] 1 Ch. 601. If the contract is vitiated by a material misrepresentation made by the vendor whether knowingly or recklessly, he cannot avail himself of the rescission clause (*Holliwell* v. *Seacombe*, [1906] 1 Ch. 426; *Re Jackson and Haden's Contract*, [1906] 1 Ch. 412; *aliter*, if made innocently, *Merrett* v. *Schuster*, [1920] 2 Ch. 240; *Procter* v. *Pugh*, [1921] 2 Ch. 256; but see Williams, Vendor and Purchaser, 3nd Edn. p. 154.

(*h*) See Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 45 (4).

(*i*) The production of a deed with a receipt in the body thereof or indorsed thereon is sufficient authority to a purchaser to pay the solicitor of the vendor (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 69), even if the vendor is a trustee (Trustee Act, 1925 (15 Geo. 5, c. 19), s. 23 (3)); and see *Day* v. *Woolwich Equitable Building Society* (1888), 40 Ch. D. 491, C. A.; *Re Hetling and Merton*, [1893] 3 Ch. 280; *King* v. *Smith*, [1900] 2 Ch. 425. A solicitor has no authority to receive purchase-money except in cash or notes (*Pape* v. *Westacott*, [1894] 1 Q. B. 272).

(*k*) The vendor is bound to execute a proper conveyance to the purchaser or as he shall direct (*Poole* v. *Hill* (1840), 6 M. & W. 835; *Egmont* v. *Smith* (1877), 6 Ch. D. 469, 474); with a plan in simple cases if required to identify the property (*Re Sansom and Narbeth's Contract*, [1910] 1 Ch. 741; *Re Sparrow and James' Contract*, [1910] 2 Ch. 60). Any stipulation purporting to throw on the purchaser the expense of tracing or getting in an outstanding legal estate is declared void by the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 42 (3), which alters the law as laid down

13. If from any cause other than the vendor's wilful default (*l*) the purchase shall not be completed on the said —— day of —— the purchaser shall pay to the vendor interest at the rate of £[4] per cent. per annum from that day until actual payment of the [balance of the] said purchase-money. [PROVIDED ALWAYS that if the completion shall be delayed by some cause not attributable to the neglect or default of the purchaser the purchaser may deposit the balance of the said purchase-money at his own risk in some bank at interest and shall give notice of such deposit to the vendor's solicitor, and in such case the vendor shall receive in full satisfaction of all claims by him to interest under this clause the interest actually earned in respect of such deposit (*m*).]

14. Upon actual completion of the purchase the purchaser shall be entitled to possession [or the receipt of the rents and profits as from the day fixed for completion] of the said hereditaments, and shall as from that day be liable for all outgoings (*n*) [and shall repay to the vendor all moneys expended by him in complying in whole or in part with any requirements of any local authority in respect of the property or any roads, streets, or sewers adjoining the same or otherwise, of which notice may be given to the vendor after the date of this agreement (*o*). The vendor shall give the purchaser immediate notice of any such requirement, and shall only expend money in compliance therewith upon the purchaser neglecting so to do within the time limited by the notice from the local authority]. The vendor shall not be liable for any deterioration of the property after the day fixed for completion. All necessary apportionments shall be made of rents, profits and outgoings for the purposes of this clause.

15. The vendor will hold the policies of assurance against loss or damage by fire to the property in trust for the purchaser if (i) the insurance society shall consent, (ii) the purchaser shall repay to the vendor on completion an apportioned part of the current premiums from the date hereof, and (iii) the purchase shall be duly completed (*p*).

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in *Re Willett and Argenti* (1889), 60 L. T. 735. The increment value duly imposed by the Finance (1909–10) Act, 1910 (10 Edw. 7, c. 8), s. 1, on the occasion of a sale of land was abolished by the Finance Act, 1920 (10 & 11 Geo. 5, c. 18), ss. 57, 64 (3), and Sched. IV, and the unrepealed part of s. 4 of the former Act requiring the transferor to present the conveyance or reasonable particulars thereof to the Commissioners was repealed by the Finance Act, 1923 (13 & 14 Geo. 5, c. 14), s. 38.

(*l*) As to what is "wilful default," see *Re Young and Harston* (1885), 31 Ch. D. 168; *Re Hetling and Merton*, [1893] 3 Ch. 269, 281; *Re Woods and Lewis*, [1898] 2 Ch. 211; *Bennett* v. *Stone*, [1903] 1 Ch. 509; *Re Bayley-Worthington and Cohen's Contract*, [1909] 1 Ch. 648. If there is no stipulation as to interest it is payable at 4 per cent. per annum from the date when a good title was shown or the purchaser took possession (*Jones* v. *Mudd* (1827), 4 Russ. 118; *Re Pigott and G.W.R. Co.* (1881), 18 Ch. D. 146; *Re Keeble and Stillwell Co.* (1898), 78 L. T. 383; *Bennett* v. *Stone*, [1903] 1 Ch. 509, 524).

(*m*) See as to the rights of the parties in the absence of this clause, *Re Riley to Streatfields* (1886), 34 Ch. D. 386; *Bennett* v. *Stone*, [1903] 1 Ch. 509, 524.

(*n*) A vendor remaining in possession after the date fixed for completion is until actual completion a trustee *sub modo* for the purchaser (*Plews* v. *Samuel*, [1904] 1 Ch. 464; *Golden Bread Co., Ltd.* v. *Hemmings*, [1922] 1 Ch. 162; *Calder's Yeast Co.* v. *Stockdale* (1926), 90 J. P. 206.

(*o*) See *Barsht* v. *Tagg*, [1900] 1 Ch. 231; *Re Highett and Bird's Contract*, [1902] 2 Ch. 214; *Allen* v. *Driscoll*, [1904] 2 Ch. 226; *Egg* v. *Blayney* (1888), 21 Q. B. D. 107; *Tubbs* v. *Wynne*, [1897] 1 Q. B. 74; *Stock* v. *Meakin*, [1900] 1 Ch. 683.

(*p*) See provision for application of insurance money contained in the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 47.

16. Upon any default of the purchaser to observe any stipulation on his part hereinbefore contained the vendor may by notice in writing [limit a time being not less than seven days for making good such default or neglect, and if the same shall not be made good within the time fixed by such notice may by a like notice] rescind this agreement [and forfeit the deposit] and if he think fit resell the property in such manner and subject to such stipulations as he approves, and shall be entitled to recover from the purchaser as liquidated damages any deficiency of price and all expenses which may result from such resale or attempted resale after giving credit to the purchaser for the amount of such deposit (*q*). The vendor shall be entitled to retain any profit received on any such resale.

IN WITNESS, &c.

THE [FIRST] SCHEDULE ABOVE REFERRED TO.

[*Description of property.*]

[THE SECOND SCHEDULE ABOVE REFERRED TO.]

[*Particulars of Tenancy.*]

[*Signatures of vendor and purchaser.*]

194.

AGREEMENT for Sale of a Farm and Farming Stock (*r*).

AN AGREEMENT made the —— day of ——, 19—, BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase, at the sum of £—— the fee-simple in possession, free from all incumbrances, of and in ALL THOSE farm and lands comprising —— acres, more or less, called or known as the —— farm, with the farmhouse, stabling, coach-houses and other buildings thereon, situate at ——, and now in the occupation of the vendor which said premises are particularly described in the first schedule hereunder written and delineated in the plan hereunto annexed and are therein coloured —— and ——.

(*q*) The vendor is generally entitled to retain the deposit on rescission of the contract for non-completion (*Dunn* v. *Vere* (1870), 19 W. R. 151 ; *Howe* v. *Smith* (1884), 27 Ch. D. 89 ; *Hall* v. *Burnell*, [1911] 2 Ch. 551 ; and see *Farrant* v. *Olver* (1922), 91 L. J. Ch. 758. A purchaser who has forfeited his deposit for non-completion cannot recover it on discovery subsequently of a defect in the vendor's title (*Soper* v. *Arnold* (1889), 14 App. Cas. 429). In calculating the deficiency of price on a resale which the purchaser must make good, credit must be given for the amount of the deposit (*Shuttleworth* v. *Clews*, [1910] 1 Ch. 176). The right of forfeiture only extends to the sum paid as a deposit not to other sums paid on account of the purchase-money (*Palmer* v. *Temple* (1839), 9 Ad. & Ell. 508, 520 ; *Cornwall* v. *Henson*, [1900] 2 Ch. 298, 302 ; *Harrison* v. *Holland and Hannen and Cubitts, Ltd.*, [1921] 3 K. B. 297 ; [1922] 1 K. B. 211 ; *Mayson* v. *Clouet*, [1924] A. C. 980.

(*r*) Stamp 6*d*.

2. The purchaser shall also pay for (1) the timber and timberlike trees plants and saplings and underwood of —— years' growth now growing on the said premises. (2) All fixtures and fittings in the farmhouse, stables, and coach-houses specified in the Second Schedule hereto annexed. (3) The thrashing machine and reaping machine and all gear and appurtenances thereof and all hay, straw, manure, chalk dressings and tillages upon or in the arable lands and other parts of the property as are usually taken by incoming tenants according to the custom of the country [*or* (3) All the live and dead farming stock, implements of husbandry and crops now growing or being on the property and the tillages and dressings done thereon].

3. The price to be paid pursuant to clause 2 hereof shall be ascertained by the valuation of Mr. —— and in his default at a fair valuation. The expense of such valuation shall be borne by the vendor and the purchaser in equal shares.

4. The purchaser, who has already paid the vendor £—— as a deposit, shall pay the balance of the purchase price and the value of the articles specified in clause 2 hereof to the vendor at the office of his solicitor, Mr. —— of &c. on the —— day of —— next, and thereupon the vendor and all other necessary parties (if any) will execute a proper assurance to the purchaser to be prepared at the purchaser's expense.

5. The title to the hereditaments sold shall commence with the conveyance on sale to the present vendor dated the —— day of —— at which date the property formed part of the —— estate the title to which is well known in the neighbourhood and was then carefully examined and approved by counsel on the vendor's behalf. The vendor will at the cost of the purchaser produce and give up on completion to the purchaser the abstract of the earlier title but such earlier title shall not be the subject of any requisition or objection. [*Or insert appropriate clause as to commencement of title as in Form* 193, *clause* 4, p. 352, *supra*.]

6. The purchaser shall, within —— days next after the delivery of the abstract, deliver to the vendor's solicitor at his said office, a statement in writing of all his objections to, or requisitions, if any, on the title to the said premises, and in default thereof, the right to make such objections and requisitions shall be deemed to be waived and the title unconditionally accepted, and in this respect time shall be of the essence of the contract.

7. [*Vendor's power of rescission as in Form* 193, *clause* 10, p. 355, *supra*.]

8. Upon the actual completion of the purchase the purchaser shall become absolutely entitled to the possession of the premises and up to such time all outgoings then payable for or in respect of the said premises shall be defrayed by the vendor but if such completion shall, from any cause whatever, not attributable to the vendor (*s*), be delayed beyond the said —— day of —— the purchaser shall pay interest on the balance of the purchase-money, [and the amount of the said valuation] at a rate of £—— per cent. per annum until the payment thereof.

(*s*) See note (*l*), p. 357, *supra*.

9. No error or misdescription of the said premises [either as to quantities, qualities, or descriptions] shall annul the sale, but compensation shall be paid in respect thereof, if, within —— days next after the date hereof, the purchaser or his solicitor shall deliver the particulars thereof and of his claim thereto, in writing, to the vendor or his solicitor and such compensation shall, if the said parties shall disagree as to the amount thereof, be referred to, and estimated by two competent surveyors, one to be chosen by each of the said parties, or by an umpire to be chosen by such surveyors before entering upon such valuation; which shall, in all respects, be conducted in the usual manner in such or similar cases.

10. [*Clause as to identity as in Form* 193, *clause* 8, p. 354, *supra.*]

11. [*Power to forfeit and annul contract as in Form* 193, *clause* 16, p. 358, *supra.*]

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of land sold.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of fixtures and fittings.*]

[*Signatures of vendor and purchaser.*]

195.

AGREEMENT for Sale of a Freehold House by an Agent of Vendor to Tenant (*t*).

THIS AGREEMENT made &c. BETWEEN [*agent*] of &c. as agent for and on behalf of [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase at the sum of £——, the fee-simple in possession free from all incumbrances of and in ALL THAT dwelling-house numbered ——, with the domestic offices, coach-house, stable, buildings, yard and garden adjoining (on the —— sides thereof) and thereto belonging, situate in —— now on lease to the purchaser.

2. The purchaser shall pay to the said [*agent*] as such agent aforesaid upon the execution hereof a deposit of £—— per cent. on and in part payment of his purchase-money, and pay the residue thereof on the —— day of —— next, when the purchase shall be completed, and up to which time all outgoings shall be defrayed by the vendor.

3. An abstract of the title to the property shall be delivered to the purchaser who shall accept the title thereby disclosed unconditionally,

(*t*) Stamp 6*d*.

it having been recently approved by counsel on his behalf in the case of the purchase of adjoining property and the vendor shall not be required to furnish any other evidence than the title-deeds in his possession in support thereof.

4. The purchaser shall take and, on the completion of the purchase, pay for the landlord's fixtures and fittings in the said dwelling-house and buildings and specified in the schedule hereunder written, at a valuation such valuation to be made by Mr. —— of —— at the expense of the vendor.

5. On payment of the purchase-money and the value of the said fixtures and fittings, the vendor shall execute a proper conveyance of the property according to the stipulations herein contained which conveyance shall be prepared by and at the expense of the purchaser and the draft thereof sent to Mr. —— the vendor's solicitor of —— for approval, —— clear days, and the engrossment, for execution, —— clear days prior to the said —— day of —— next.

6. If, from any cause whatever, completion shall be delayed beyond the said —— day of —— next, the purchaser shall pay interest at the rate of £—— per cent. per annum on his purchase-money and the value of the said fixtures and fittings till the completion thereof.

7. If any obstacle or difficulty shall arise to or in the title, or the completion of the purchase, or otherwise, the vendor shall be at full liberty, at any time, to abandon this contract on returning the deposit money only to the purchaser.

8. If this contract shall be determined, the purchaser or his solicitor shall return the abstract and all documents and papers furnished to or prepared or procured by him.

9. No error or misdescription of the said premises shall annul the sale [nor shall any compensation be allowed in respect thereof].

10. If the purchaser shall refuse or neglect to complete his purchase at the time hereby appointed, his deposit money shall be absolutely forfeited to the vendor, who shall be at full liberty, at any time afterwards, to resell the property, either by public auction or private contract, and the deficiency, if any, occasioned thereby, together with all loss, damages, and expenses of and attending the same, and incident thereto, shall be borne and paid by the purchaser, and be recoverable by the vendor as liquidated damages but any increase in price shall belong to the vendor.

11. Time shall in all respects be of the essence of the contract.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of landlord's fittings.*]

[*Signatures of agent* (as agent for vendor) *and of purchaser.*]

196.

AGREEMENT for Sale of House and Land where part of the Price is Secured by Mortgage (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will buy at the price of £—— whereof the purchaser has already paid £—— as a deposit the fee-simple in possession, free from all incumbrances, of and in ALL THAT detached villa called —— Villa, situate at —— in the county of —— and the paddock or field adjoining thereto all which premises are delineated on the plan hereto annexed and thereon coloured [red].

2. The purchaser shall pay £—— being further part of the said price on the —— day of —— next at the office of Messrs. —— the vendor's solicitors at —— and shall at the same time and place after conveyance to him of the said hereditaments execute in favour of the vendor a legal mortgage thereof for the balance of the said price.

3–9. [*Clauses as to valuation of timber and fixtures: commencement of title: requisitions and objections: easements, identity and misdescription and vendor's power of rescission as in Form* 193, *clauses* 3, 4, 5, 7, 8, 9 *and* 10, pp. 352 *et seq., supra.*]

10. On the said —— day of —— next if the purchaser shall duly pay the said sum of £—— the vendor will execute a proper assurance of the property to the purchaser such assurance to be prepared and perfected by and at the expense of the purchaser.

11. If from any cause other than the wilful default of the vendor (*b*) the purchase shall not be completed on the —— day of —— the purchaser shall pay the vendor interest at the rate of £—— per cent. per annum from the —— day of —— until actual completion on the whole of the purchase price except the said deposit.

12. The said legal mortgage shall be executed by the purchaser immediately after the property has been conveyed to him and thereby the purchaser shall covenant for the payment to the vendor of the said balance of the purchase price with interest thereon at the rate of £[6] per cent. per annum by half-yearly payments as from the date of the said mortgage and shall demise the said hereditaments for a term of 3000 years to the vendor by way of security for the same balance and interest. The said mortgage shall provide that so long as the interest thereon is duly paid the principal sum secured shall not be called in for —— years with power for the purchaser on six months' notice to the vendor to pay the said principal sum by instalments of not less than £—— each, that the purchaser

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(*a*) Stamp 6*d*. As to the powers of trustees to allow part of the purchase-money to remain on mortgage, see the Trustee Act, 1925 (15 Geo. 5, c. 19), s. 10 (2).

(*b*) See p. 357, note (*l*), *supra*.

shall insure in the full value thereof and keep in repair the said hereditaments and that the vendor will accept interest at the reduced rate of £[5] per cent. per annum on punctual payment and shall contain all other usual and proper powers and provisions. In case the parties cannot agree on the form of the said mortgage the same shall be settled by the Senior Conveyancing Counsel to the Chancery Division of the High Court of Justice [*or* the vendor's counsel]. The purchaser shall pay all costs of the vendor properly incurred of and in relation to the said mortgage.

13. All documents of title including the assurance mentioned in clause 8 hereof shall during the continuance of the said mortgage loan be retained by the vendor.

14–16. [*Possession on completion: trust of insurance policies and forfeiture clause as in Form* 193, *clauses* 14, 15, *and* 16, p. 357, *supra.*]

IN WITNESS, &c.

[*Signature of vendor and purchaser.*]

197.

AGREEMENT for Sale of Cottage and Garden by a Vendor whose Title is under the Real Property Limitation Acts. Short Form (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase, at the sum of £—— of which £—— has been paid as a deposit upon the execution hereof, the fee-simple in possession free from all incumbrances of and in ALL THAT cottage and garden, thereto belonging, situate at &c. and now in the occupation of the vendor.

2. The vendor has been in undisturbed and continuous possession of the property without giving any acknowledgment of any right in any other person thereto for a period of over twenty years next before the date of this agreement and on being furnished with a statutory declaration verifying the above facts by the vendor [*or* by an independent person who has resided in the neighbourhood for —— years and is well acquainted with the facts of such possession] the purchaser shall not require any further title to be deduced but shall assume that the vendor is now seised of the property in fee simple, free from incumbrances.

Or, 2A. The vendor's father went into possession of the property in the year —— and died intestate in the year —— leaving the vendor his heir at law [to whom the property was duly conveyed on the —— day of —— by the administrator of his said father or in whom the legal estate became vested by virtue of the Law of Property Act, 1925 (or by

(*c*) Stamp 6*d*.

an assent dated &c.) (*d*)]. Since the death of his said father the vendor has been in continuous and uninterrupted possession of the property and neither he nor his said father ever acknowledged any title to the said property in any other person. The purchaser shall accept a statutory declaration by the vendor verifying the above facts [and the production of the said letters of administration and conveyance or assent] as conclusive proof of the vendor's title in fee simple in possession to the property free from incumbrances.

3. The purchase shall be completed on the —— day of —— next at the office of Messrs. —— the vendor's solicitors, when and where the balance of the purchase price shall be paid.

4. The purchaser shall not be entitled to possession until actual completion of the purchase but shall pay interest at 6 per cent. per annum on all purchase-moneys not paid on or before the said —— day of —— until actual payment and shall pay all outgoings as from the said —— day of ——.

5. Completion shall on no account be delayed beyond —— months from the date hereof, except by mutual consent, and the vendor shall, nevertheless, have the option of vacating the contract instead of consenting to such extension, and in this respect time shall be the essence of this contract.

6. The purchaser shall at his own expense prepare the necessary assurance for conveying the said premises to him, and the draft thereof shall be sent to the vendor's solicitor —— for perusal —— days and the engrossment for execution —— days prior to the said —— day of ——.

In WITNESS, &c.

[*Signatures of vendor and purchaser.*]

198.

AGREEMENT for Sale of Villa subject to a Mortgage where Price is to be Determined by Valuation. Variations where price is payable otherwise than in cash (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy ALL THAT villa known as —— Villa —— Street —— in the county of —— and the gardens, orchard and grounds thereto belonging all which premises are delineated on the plan hereto annexed and thereon coloured [pink].

(*d*) The words in square brackets are only appropriate if the vendor's father died after the 31st of December, 1897 : see the Law of Property Act, 1925 (15 Geo. 5, c. 20), Sched. 1, Part 2, paras. 3 and 6 (*d*), and the Administration of Estates Act, 1925 (15 Geo. 5, c. 23), s. 36.

(*e*) Stamp 6*d*.

2. The estate in the said hereditaments which is the subject of this sale is the fee simple in possession thereof subject to a mortgage thereon for securing the principal sum of £—— and interest thereon at —— per cent. per annum, but otherwise free from incumbrances. At the date of this agreement the whole of the said principal sum is still owing together with interest thereon from the —— day of —— last.

3. The price to be paid for the purchase of the said hereditaments shall be fixed by Mr. —— of &c. as the valuer acting on behalf of both parties [*or* by Mr. —— of &c. on behalf of the vendor and Mr. —— of &c. on behalf of the purchaser or by their umpire appointed by them before they enter upon their valuation, [*or* by two valuers to be appointed one by the vendor and one by the purchaser or by their umpire pursuant in all respects to the Arbitration Act, 1889], and this clause shall be considered a submission to arbitration within the meaning of that Act]. Unless the parties hereto extend the time the valuation to be made under this clause shall be completed and the result thereof certified to the parties hereto within [one] calendar month of the date hereof and if not so completed and certified this agreement shall become void. But the authority of the valuers [or their umpire] shall not be affected by the death of the vendor or the purchaser before the expiration of such calendar month or such extended time as aforesaid (*f*).

[*Or* 3A. The price for the said purchase shall be £—— of which £—— has been paid by the purchaser to the vendor as a deposit. The balance of the said price shall be satisfied by a transfer into the name of the vendor of a sum of £—— consolidated £2 10*s.* per cent. per annum. Stock on or immediately before the completion of the purchase.

Or by the transfer to the vendor by the purchaser of a mortgage [*or* of the benefit of a legal charge] dated the —— day of —— and made between [*mortgagor*] of &c. of the one part and the purchaser of the other part whereby a dwelling-house and land situate at —— were demised to the purchaser for the term of 3000 years by way of security for [*or* were charged by way of legal mortgage with the payment to the purchaser of] £—— and interest thereon at the rate of £—— per cent. per annum. The said transfer shall be made at the purchaser's expense immediately before the completion of the purchase [and the purchaser shall if required procure the concurrence of the mortgagor in such transfer]. The whole of the said principal sum of £—— is now owing together with interest from the —— day of —— on the security of the said mortgage [*or* legal charge] and the purchaser shall not except by direction of the vendor take any steps to call in or obtain payment of or otherwise deal with the said principal sum and interest accrued or to accrue due thereon until the completion of this purchase or the determination otherwise of this agreement.

Or, by the effectual assignment of a bond dated the —— day of —— whereby [*obligee*] became bound to the purchaser in the penal sum of £—— for payment to him on the —— day of —— of £—— with interest

(*f*) It seems that the death of either party might revoke the valuers' authority (*Blundell* v. *Brettargh* (1810), 17 Ves. 232, 242).

at the rate of £ —— per cent. per annum. Such bond shall be transferred at the purchaser's expense on or immediately before the completion of the purchase and the purchaser hereby guarantees that the sum thereby secured with interest thereon from the —— day of —— is still owing and undertakes not to deal therewith except by the vendor's direction until such completion or the determination of this agreement.

Or, by promissory note of the purchaser to be signed on or immediately before completion for payment of the sum of £—— with interest thereon at £5 per cent. per annum on demand.

Or, by the endorsement and delivery to the vendor on or before completion of a certain promissory note of [*debtors*] whereby they jointly and severally promised to pay to the purchaser £—— and interest thereon at the rate of £5 per cent. per annum —— months after the date thereof which promissory note still remains wholly unsatisfied].

4–10. [*Clauses as to the fixtures, commencement of title, requisitions, easements, identity, misdescription and vendor's power of rescission as in Form* 193, *clauses* 3–5, 7–10, pp. 352 *et seq., supra.*]

11. Completion shall take place on the —— day of —— next at the office of Messrs. —— the vendor's solicitors on which date the [balance of the] said purchase price shall be paid [or satisfied] as aforesaid and thereupon the vendor and all other necessary parties if any will execute a proper assurance of the property to the purchaser such assurance to be prepared and perfected save as to the vendor's execution thereof at the expense of the purchaser.

12–14. [*Clauses as to possession, statutory notices, trust of insurance policies and forfeiture if desired as in Form* 193, *clauses* 14, 15, 16, p. 357, *supra.*]

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

199.

AGREEMENT for Sale of House held prior to 1st of January, 1926, in undivided shares (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*trustees for sale, i.e. the former tenants in common*] of &c. (hereinafter called the vendors) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREAS by virtue of the Law of Property Act, 1925, Schedule 1, Part IV. paragraph 1 (2), the property hereinafter mentioned is vested in the vendors as joint tenants upon the statutory trusts which include a trust for sale.

(*g*) Stamp 6*d*. As to tenancy in common, see note (*a*) p. 321, *supra*. It is assumed in this form that the property not being settled land was vested immediately before the 1st of January, 1926, absolutely and beneficially in two persons as tenants in common, free from incumbrances affecting the entirety or their respective shares: see Law of Property Act, 1925 (15 Geo. 5. c. 20), Sched. 1, Part IV. para. 1 (2).

NOW IT IS HEREBY AGREED as follows :—

1. The vendors will sell and the purchaser will purchase the unincumbered fee simple of ALL THAT dwelling-house and garden known as —— situate &c.

2. [*Clause as to price and deposit as in Form* 193, *clause* 2, p. 351, *supra.*]

3. The purchaser shall also pay to the vendors —— the value of the fixtures and fittings in the said dwelling-house as ascertained by Mr. —— of &c. such valuation to be made at the purchaser's expense, and the sum so ascertained shall for all purposes of this agreement be added to the said purchase price.

4–9. [*Clauses as to commencement of title, requisitions, easements, identity, misdescription, power of rescission, as in Form* 193, *clauses* 4, 5, 7–10, pp. 352 *et seq., supra.*]

10. The property is sold subject to the existing tenancy thereof particulars of which have already been furnished to the purchaser. As from the said —— day of —— the purchaser shall be entitled to the receipt of the rents and profits of the property and shall bear all outgoings and such rents profits and outgoings shall if necessary be duly apportioned.

11–12. [*Clauses for completion and payment of interest as in Form* 193, *clauses* 12 *and* 13, pp. 356 *et seq., supra.*]

13. The vendors are selling as joint trustees for sale and no covenant for title other than the statutory covenant implied by reason of their being expressed to convey as trustees shall be required from them (*h*).

14–15. [*Trusts of insurance policy and power to rescind contract and forfeit deposit as in Form* 193, *clauses* 15 *and* 16, p. 357, *supra, substituting* vendors for vendor.]

IN WITNESS, &c.

[*Signatures of vendors and purchaser.*]

200.

AGREEMENT for Sale of Freeholds by absolute Owner, the Purchaser agreeing to grant a Lease to the Vendor (*i*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the fee-simple in possession free from incumbrances but subject as hereinafter mentioned of ALL THOSE messuages and hereditaments situate and being Nos. ——, in —— Street, in the [City of London], the site whereof is delineated and coloured [red] on the plan hereto annexed.

(*h*) As the vendors are trustees for themselves they could convey as beneficial owners.

(*i*) Stamp 6*d.*

2. Part of the consideration for the said sale shall be the sum of £—— whereof £—— shall be paid by the purchaser to the vendor on the execution of this agreement and the balance shall be so paid on the day hereinafter fixed for completion. The residue of such consideration shall be the granting by the purchaser to the vendor of a lease of the premises hereby sold on the terms hereinafter mentioned immediately after the completion of the purchase.

3–8. [*Clauses as to commencement of title, requisitions, easements, identity, misdescription, and power to rescind as in Form* 193, *clauses* 4, 5, 7–10, pp. 352 *et seq., supra.*]

9. The property is sold subject to the leases and tenancies now affecting the same particulars whereof have already been furnished to the purchaser who shall be deemed to buy with full knowledge thereof and shall make no requisition or objection in respect of the same.

10, 11, 12. [*Clauses as to completion, payment of interest and receipt of rents &c. as in Form* 193, *clauses* 12, 13, 14, pp. 356 *et seq., supra.*]

13. Immediately after completion of the said purchase the purchaser shall grant to the vendor a lease of the premises for a term of [99] years from the date fixed for completion at the yearly rent of £——, clear of all deductions except for landlord's property tax, and payable by equal half-yearly payments on the —— day of —— and the —— day of —— in every year, the first such payment to be made on the —— day of —— next. Such lease shall be granted subject to the leases and tenancies affecting the property at the date fixed for completion, but with the benefit of the rents and the covenants on the part of the lessees and tenants and conditions by and in the same leases and tenancies respectively reserved and contained.

14. The said lease shall contain the following covenants by the tenant:—

(1) To pay rent as aforesaid.

(2) To pay and discharge during the said term all rates, taxes, assessments [and outgoings] charged or imposed upon or in respect of the premises or upon the owner or occupier thereof or payable in respect thereof except landlord's property tax.

(3) To keep the premises in good and substantial [*or* tenantable] repair during the said term.

(4) In every third year of the term to paint the external wood, iron and cement work and other external parts usually painted, and in every seventh year of the term to paint the internal wood and iron work and other internal parts usually painted and to decorate and paper internally.

(5) To bear a proper proportion of the cost of repairing, rebuilding and cleansing party walls and drains used in common with other persons.

(6) To permit the landlord to enter and view the condition of the premises and upon [one] month's previous notice in writing given to him to repair in accordance with such notice.

(7) To keep the premises insured in the sum of £ —— at the least in some office approved by the landlord and to produce to the landlord the policies and all receipts for payment of premiums on demand and to rebuild in case of destruction or injury by fire with power for the landlord to insure in case of default by the tenant, and recover the expenses thereof from the tenant.

(8) To yield up the premises with all additions and fixtures other than tenant's fixtures at the determination of the tenancy in good and substantial [*or* tenantable] repair and condition.

15. The said lease shall contain the usual qualified covenant by the landlord for quiet enjoyment and a proviso for re-entry by the landlord if rent shall be in arrear for 21 days or on breach or non-observance of any covenant by the tenant or on the tenant's bankruptcy.

16. The said lease and a counterpart thereof shall be prepared by the purchaser's solicitor and if any question shall arise between the parties as to the form and contents of such lease the same shall be settled by counsel to be agreed upon between them or in default of agreement to be nominated by the President for the time being of the Law Society, the decision of such counsel on any such question to be final and binding on the parties hereto (*k*).

17. The costs of and incidental to the preparation and perfecting of such lease shall be borne by the vendor and the costs of and incidental to the preparation and perfecting of such counterpart shall be borne by the purchaser.

18. [*Power to vendor to rescind the contract and forfeit the deposit as in Form* 193, *clause* 16, p. 358, *supra.*]

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

201.

AGREEMENT for Sale of Freehold Ground Rents by Trustees (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendors*] of &c. (hereinafter called the vendors) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendors will sell and the purchaser will purchase at the price of £—— the fee simple of ALL THOSE —— plots or parcels of land situate at —— in the county of —— described in the first column of the schedule

(*k*) It is advisable to agree to the form of lease, and schedule it to the agreement, in which case clauses 14, 15, and 16 can be omitted, and a clause substituted therefor providing that the lease shall be in the form set forth in the Schedule.

(*l*) Stamp 6*d*. This is in fact a sale not merely of ground rents, but of the freehold subject to leases. For a sale of ground rents in the strict sense, *i.e.* a sale of the rents as distinguished from an estate in the land, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 14, p. 342.

hereunder written, with the messuages or dwelling-houses lately erected on the said plots or parcels of ground [and known as —— Terrace and numbered therein [one to fifty] inclusive] and comprised in the several indentures of lease mentioned in the second column of the said schedule and demised to the lessees for the terms and at the rents also in the said schedule mentioned TOGETHER with the rents reserved by the said indentures of lease, and the benefit of the covenants and conditions therein respectively contained, and on the lessees' part to be observed and performed, subject nevertheless to such indentures of lease.

2. The vendors are selling in pursuance of a trust [for sale] and will convey as trustees.

3. [*Add other clauses as in Form* 193, pp. 351 *et seq.*, *supra*.]

AS WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

Parcels.	Particulars of Lease.	Terms.	Rent.
No. 1.—Terrace	Lease dated the — day of — between [*lessor*] and [*lessee*]	99 years from 29 March, 1880	£10
No. 2.—Terrace	*ib.*	*ib.*	*ib.*

[*Signatures of vendors and purchaser.*]

202.

AGREEMENT for Sale of Unfinished Houses with immediate possession (*m*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREAS the vendor is seised in fee simple of a piece of land situate at —— and has partially erected thereon [ten] semi-detached [*or* a terrace of [ten]] dwelling-houses, containing —— rooms each, with domestic offices thereto respectively attached, a plan of which said land, with a ground plan of the said buildings, is hereunto annexed and signed by both the said parties.

NOW IT IS HEREBY AGREED as follows:—

1. The vendor will sell and the purchaser will purchase at the price of £—— the said freehold land and all buildings and erections thereon and all unused materials scaffolding and things now on the premises and intended or adapted to be used for the said building [including in particular the articles specified in the Schedule hereto] free from all charges, incumbrances and claims whatsoever.

(*m*) Stamp 6*d*.

2. The said price shall be apportioned as to £—— part thereof as the price of the said land and buildings and as to £—— balance thereof as the price of the said materials, articles and things.

3. The purchaser having paid a deposit of £—— on the execution of this agreement shall without prejudice to the rights of either party hereto be entitled to the possession of the said land, buildings, materials and articles as from the date hereof and as from such date shall be liable for all outgoings in respect of the premises.

4. The title of the vendor to the said land shall commence [*continue as in Form* 193, *clause* 4, p. 352, *supra*].

5. [*Clauses as to requisitions, quit rents &c., if appropriate, identity, misdescription as in Form* 193, *clauses* 5, 7, 8, 9, p. 353, *supra.*]

6. If the purchaser shall insist upon any requisition or objection which the vendor shall on any ground be unable or unwilling to comply with or remove the vendor may by notice in writing to the purchaser rescind this agreement and thereupon the vendor shall return to the purchaser his said deposit which shall be accepted in full satisfaction [save as hereinafter mentioned] of all claims by him for interest costs compensation or otherwise howsoever and the purchaser shall return all papers belonging to the vendor and shall within [seven] days after such notice deliver to the vendor or his authorised agent peaceable possession of the premises of which he shall have taken possession under clause 3 hereof [and shall pay to the vendor £—— for every day during which the purchaser shall have remained in possession [*or* a sum of £—— as damages in respect of the possession by him of the said premises]].

7. [If the vendor shall rescind this agreement under clause 6 hereof after the purchaser shall by building or otherwise have increased the value of the said premises the vendor shall be liable to repay to the purchaser together with the said deposit such sum as the vendor's surveyor shall certify to be the said increase of value and such sum so far as the same will extend shall be set off against all sums then due from the purchaser to the vendor under this agreement.]

8. [*Clause as to completion of the contract as in Form* 193, *clause* 12, p. 356, *supra.*]

9. If the purchase shall not be completed on the said —— day of —— from any cause except the vendor's wilful default the purchaser shall pay interest at the rate of £5 per cent. per annum on the unpaid balance of the said purchase price until actual completion [*or if no provision is made for payment of a rent or liquidated damages under clause* 6 the purchaser shall pay the vendor interest at the rate of £5 per cent. per annum on the balance of his purchase-money for the time being unpaid as from the date of this agreement until actual payment of such balance or until this agreement shall be rescinded by the vendor under any provision herein contained].

10. [*Trusts of policy of assurance as in Form* 193, *clause* 15, p. 357, *supra.*]

11. Until actual completion of the purchase the purchaser will keep the buildings on the said piece of land in good repair [and fully insured] and the said materials and articles in good condition.

12. If the purchaser shall make default in complying with any terms of this agreement his deposit may be forfeited by the vendor and the premises resold and the purchaser shall be liable to pay to the vendor the expenses and loss, if any, attending such resale after deducting the amount of such deposit as liquidated damages. The purchaser shall also forthwith give up peaceable possession of the said premises to the vendor or as he shall direct and shall also pay to the vendor £—— a day for every day during which he retains possession after being required by the vendor by notice in writing to deliver up the same in [addition to all interest payable by him under clause 9 hereof].

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of building plant, &c.*]

[*Signatures of vendor and purchaser.*]

203.

AGREEMENT for Sale of a House in course of erection which the Vendor agrees to Complete (*n*).

THIS AGREEMENT is made the —— day of —— BETWEEN —— of —— Builder (hereinafter called the vendor) of the one part and —— of —— (hereinafter called the purchaser) of the other part.

NOW IT IS HEREBY AGREED as follows :—

1. The vendor will sell and the purchaser will purchase at the price of £—— ALL THAT piece of freehold land situate on the [East] side of a certain new road called —— in the town of —— in the County of —— having a frontage to the said road of [50] feet or thereabouts and an average depth of [150] feet or thereabouts more particularly delineated and described on the plan annexed hereto and thereon coloured [pink] TOGETHER with the dwelling-house now in course of erection thereon which the vendor agrees to complete in manner hereinafter mentioned.

2. The vendor shall pay £—— as a deposit on the signing of this agreement to Mr. —— of —— as stakeholder and shall pay the balance of the purchase money on the day fixed for completion.

3. The vendor shall forthwith complete the building of the said dwelling-house with the outbuildings drains and boundary fences in accordance with the plans elevations drawings and specification thereof which for the purpose of identification have been signed by both parties and will clear the ground of all building materials and rubbish and leave the said premises fit for immediate occupation on or before the —— day of ——.

(*n*) Stamp 6*d*.

4. The vendor shall comply with all the byelaws and regulations as to new buildings of the Urban [Rural] District Council of —— and shall hand over to the purchaser on the date fixed for completion the certificate of the Surveyor of the local authority that the said dwelling-house can be inhabited.

5. Subject as aforesaid the purchase shall be completed on the said —— day of —— at the offices of Messrs. —— of —— the vendor's solicitors.

6. The title to the property shall commence with [*add appropriate clause from* p. 352, *ante*.]

7. The Statutory Form of Conditions of Sale, 1925, shall apply to this contract (*o*).

8. If any dispute or difference shall arise between the said parties touching or concerning the building of the said dwelling-house or the said plans elevations drawings and specification thereof or the price to be paid or allowed for any extras omissions or other variations ordered or sanctioned in writing by the purchaser the same shall be referred to an architect nominated by the president for the time being of the Royal Institute of British Architects whose decision shall be final and conclusive between the said parties and for the purposes of such reference this agreement shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1889.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

204.

AGREEMENT for Sale of Land subject to a Rentcharge and Restrictive Covenants (*p*). The Rentcharge being apportioned.

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase ALL THAT piece or parcel of land situate at —— in the county of —— containing by admeasurement —— acres or thereabouts and numbered —— on the plan hereto annexed and thereon coloured [red] subject with other land to an annual rentcharge which is perpetual [*or* is chargeable during the lives of —— and —— and the life of the survivor of them *or* during the life of [*rent owner*]] and is payable by equal half-yearly payments on the —— day of —— and the —— day of —— in every year but otherwise free from incumbrances.

2–4. [*Clauses as to price, commencement of title and requisitions, as in Form* 193, *clauses* 2, 4, *and* 5, pp. 351, 352, *supra*.]

3. The said rentcharge was created by a deed dated the —— day of —— and made between [*parties*] and is now payable to [*name of rent owner*]. The vendor will produce a duplicate of the said deed and a

(*o*) See p. 351, *ante*. (*p*) Stamp 6*d*.

receipt for the last payment of the said rentcharge purporting to be signed by the said [*rent owner*] and the purchaser shall on such production assume that the right to receive the said rentcharge is duly vested in the said [*rent owner*] and shall make no requisition or objection relating to the said rentcharge or the title thereto.

[*Or* 3. The vendor has no evidence in his possession relating to the origin or devolution of the said rentcharge [except certain allusions thereto in the deeds forming part of the title to the property sold]. The vendor will produce a receipt for the last payment thereof purporting to be signed by [*rent owner*], to whom the same has in fact been paid for the past —— years. On production of such receipt, and on being furnished with a statutory declaration by the vendor to be made if required at the purchaser's expense, the purchaser shall assume that the right to receive [*&c., as in preceding clause*]].

4. The said rentcharge shall henceforth be charged as to £—— part thereof on the land agreed to be sold to the purchaser and as to £—— the balance thereof on the land retained by the vendor, and the purchaser shall not require either the legal apportionment of the said rentcharge or the concurrence of the rent owner in the above apportionment The remedies given by the Law of Property Act, 1925, s. 190, shall apply in respect of the said apportioned rents.

5. The property is sold and will be conveyed subject to the stipulations as to building user and otherwise set forth in the Schedule hereto [*or* in the said deed of the —— day of —— [*deed creating rentcharge*] *or* in deed of covenant dated the —— day of —— and made between [*parties*] which the purchaser will execute immediately after the execution of the conveyance to him of the property agreed to be sold (*q*). The said deed of the —— day of —— [*deed creating rentcharge or deed of covenant as the case may be*] having been already produced to the purchaser he shall be deemed to purchase with full notice of the contents and effect thereof].

6–8. [*Clauses as to easements, &c., identity and misdescription and vendor's power of rescission, as in Form* 193, *clauses* 7, 8, 9, *and* 10 p. 354, *supra.*]

9. [*Clause as to completion and conveyance as in Form* 193, *clause* 12, p. 356, *supra, adding.*] Such assurance shall be prepared in duplicate, such duplicate to be also prepared and perfected at the expense of the purchaser.

10. In addition to the usual provisions the said assurance shall contain covenants by the purchaser :—

(i) To perform and indemnify the vendor against any breach of the covenants as to building user and otherwise contained in the said indenture of the —— day of —— [*i.e. deed creating rentcharge if it contains covenants*] (*r*).

(*q*) This last provision is appropriate where a separate deed has been prepared which is executed by the purchaser of each lot as he completes his purchase. See Encyclopædia of Forms and Precedents, 2nd Edn. vol. 15, Form 238, p. 893.

(*r*) Covenants and charges in respect of the apportioned rentcharge are implied by the Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 77 (1) (B), and Sch. 2, Part VIII.

Or, to observe and perform the stipulations contained in the Schedule hereto so far as the same affect or will affect the property so conveyed. Such covenant shall be framed as far as possible so as to bind all persons into whose hands the said property may come and so as to be enforceable by the vendor, and his successors in title, owners for the time being of the other plots of land numbered and coloured on the plan hereto annexed.

10. Nothing in this agreement or in the said conveyance shall preclude the vendor or his successors in title from selling other parts of the land shown on the said plan without imposing thereon and upon the purchasers thereof the stipulations contained in the Schedule hereto.

11—13. [*Clauses as to interest, possession, and forfeiture of deposit as in Form* 193, *clauses* 13, 14, *and* 16, pp. 357 *et seq.*]

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Restrictive stipulations.*]

[*Signatures of vendor and purchaser.*]

205.

AGREEMENT for Sale of Freeholds in Consideration of a Rentcharge and Covenants as to Building (*s*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchasers*] of &c. (hereinafter called the purchasers) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchasers will purchase the fee simple in possession free from incumbrances of ALL THAT plot or parcel of ground forming part of the —— Estate situate at —— in the county of —— which plot or parcel of ground is delineated on the plan hereto annexed and numbered —— and coloured [red] thereon.

2. The consideration for the said sale shall be the sum of £—— (of which sum £—— has been paid by way of deposit) and the grant by the purchasers to the vendor of a perpetual yearly rentcharge of £—— payable half yearly on the —— day of —— and the —— day of —— free from all deductions except for income tax, the first half-yearly payment to be made on the —— day of —— next.

3—9. [*Clauses as to commencement of title, requisitions, easements, &c., identity, misdescription, and vendor's power to rescind as in Form* 193, *clauses* 4, 5, 7–10, pp. 352–355, *supra, substituting* purchasers *for* purchaser.]

(*s*) Stamp 6*d*.

10. Completion of the purchase shall take place on the —— day of —— next at No. —— the office of Messrs. —— the vendor's solicitors at which time and place the purchasers shall pay the balance of the said sum of £—— and thereupon the vendor shall execute a proper assurance of the property to the purchasers as joint tenants in fee simple upon trust nevertheless for the purchasers in undivided moieties. A duplicate of such assurance shall be executed by the purchasers, and the purchasers shall bear the costs of and incidental to the preparation and perfecting of the said assurance save as to the vendor's execution thereof, and the vendor shall bear the costs of and incidental to the preparation and perfecting of the said duplicate save as to the purchasers' execution thereof.

11. The said assurance shall contain a reservation to the vendor his heirs and assigns out of the said hereditaments of the said yearly rentcharge of £—— issuing thereout in perpetuity and in addition to all statutory powers and remedies (*t*) for receiving and compelling payment of the same a further proviso that in case there shall be at any time during the lives of the vendor and the purchasers or the survivors of them or the life of the survivor [*or* during the life of the survivor now living of the issue of his late Majesty King Edward VII.] or within twenty-one years after the death of such survivor, and during such longer period if any allowed by law any breach on the part of the purchasers, or their successors in title, of any covenant in the Schedule hereto the vendor and his successors in title may re-enter upon the hereditaments so assured and any buildings thereon and remedy such breach and receive the rents and profits of the said premises until all rent in arrear and all moneys expended in remedying such breach and all costs and expenses incurred in or about the same with interest thereon at 5 per cent. per annum shall thereby or otherwise be fully paid and satisfied [*or if the power of re-entry is to be absolute* the vendor and his successors in title may thereupon re-enter upon or into the hereditaments so assured and any buildings thereon or any part thereof in the name of the whole and repossess the same as in his or their former estate in such hereditaments]. Subject as aforesaid the said hereditaments shall be conveyed to the purchasers in fee simple as joint tenants upon the statutory trusts.

12. The purchasers shall by the said assurance jointly and severally covenant with the vendor, and his successors in title to the intent that so far as possible such covenant shall bind all persons thereafter to become entitled to any estate or interest in the said hereditaments or any part thereof, and shall enure for the benefit of the vendors, and all persons for the time being entitled to the other hereditaments delineated on the plan hereto annexed and thereon coloured [blue] to observe and perform the stipulations contained in the Schedule hereto.

(*t*) As to these, see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 121, which applies only if and as far as a contrary intention is not expressed in the instrument creating the rentcharge. Powers and remedies for recovering and compelling payment of annual sums within s. 121 are not obnoxious to the rule against perpetuities (*ibid.* s. 121 (6)); but provisions for re-entry on breach of covenant other than for payment of the rentcharge must be limited to take effect within the period allowed by that rule.

13. The purchasers shall also jointly and severally covenant with the vendor.

(1) To pay the said rentcharge on the appointed days.

(2) To build within one year of the date of such assurance as aforesaid at their expense to the satisfaction of the architect for the time being of the vendor, [one] good and substantial messuage of stone or brick to be set with lime or mortar and well slated or tiled and to be of a clear yearly value of double (at least) the said rentcharge [*or* of a value of £—— at the least calculated upon the net cost at current prices of labour and materials alone].

(3) At all times to keep the same in good and substantial repair and insured against loss or damage by fire in some office approved by the vendor, in the full value thereof.

(4) To produce all policies and receipts for premiums to the vendor upon request and apply all moneys received in respect of such insurance in rebuilding the said premises.

(5) To pay such proportion as the surveyor for the time being of the vendor shall certify to be fair having regard to the frontage of the hereditaments sold to the [intended] road coloured [brown] on the plan hereto annexed of the expense of making, paving and channelling such road and keeping the same in repair and of laying and repairing any sewers now or at any time hereafter to be laid thereunder until such road and sewers shall become repairable by the local authority.

(6) To fence the hereditaments hereby sold along the boundaries marked T on the said plan and at all times duly maintain such fences.

14. The vendor will retain and give the usual statutory acknowledgement and undertaking in respect of all title deeds which do not exclusively refer to the hereditaments hereby sold.

15. The vendor shall not be required to impose upon any adjoining land belonging to him any restrictions identical or similar to those contained in this agreement or the Schedule hereto.

16. If from any cause other than the vendor's wilful default the purchase shall not be completed on the —— day of —— next, the purchasers shall pay the vendor interest at the rate of £[5] per cent. per annum from that day until actual payment on the balance of the said sum of £——.

17. [*Clause as to possession omitting the words in square brackets as in Form* 193, *clause* 14, p. 357, *supra, substituting* purchasers *for* purchaser.]

18. Should the purchasers make default in complying with any stipulation on their part herein contained the vendor may by notice in writing rescind this agreement and forfeit the said deposit and may resell the said hereditaments in such manner and subject to such stipulations as he may approve, and shall be entitled to recover from the purchasers as liquidated

damages any deficiency in price and any expenses attending such resale or attempted resale after giving credit for the said deposit. For the purpose of ascertaining such deficiency of price, the rentcharge hereby fixed as part of the purchase price and the rentcharge (if any) fixed as the purchase price or part thereof at any resale shall be respectively capitalised at [20] years' purchase.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

1. The purchasers shall not use any messuages or other building erected or to be erected on the hereditaments hereby sold or any part thereof except as a private dwelling-house or professional residence.

2. The purchasers shall not do or suffer to be done on the said hereditaments or any part thereof or in any building erected or to be erected thereon anything which shall be a nuisance or annoyance to the vendor, or his successors in title or any person for the time being owning or occupying any land adjacent to or in the neighbourhood of the said hereditaments.

3. The purchasers shall not open any brickyard or stone quarry on the said hereditaments or make bricks or tiles thereon or burn clay or lime thereon or excavate for sale gravel or other material therefrom.

4. The purchasers shall not erect on the said hereditaments any temporary building or hoarding except sheds or workshops for the purpose of erecting the said messuage to be built thereon and to remove all such buildings and hoarding forthwith after completion of the said messuage (*u*).

[*Signatures of vendor and purchasers.*]

206.

OPTION of Purchase of Freehold Land (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 357, *supra*].

WHEREBY IT IS AGREED as follows:—

1. In consideration of £—— this day paid by the purchaser to the vendor (the receipt whereof the vendor hereby acknowledges) the purchaser shall have an option of purchasing [*parcels as in Form* 193, *clause* 1, p. 357, *supra*] for an estate of fee simple in possession free from incumbrances at the price of £—— within —— months [*or* years (*b*)] from the date hereof.

(*u*) The stipulations in this schedule are inserted as examples.

(*a*) Stamp 6*d*.

(*b*) This period should not exceed the limit allowed by the rule against perpetuities (*Woodall* v. *Clifton*, [1905] 2 Ch. 257, and see *South Eastern Railway Co.* v. *Associated Portland Cement Manufacturers, Ltd.*, [1910] 1 Ch. 12; *Re Leeds and Batley Breweries and Bradbury's Lease*, [1920] 2 Ch. 548; *Rider* v. *Ford*, [1923] 1 Ch. 541).

By the Settled Land Act, 1925 (15 Geo. 5 c. 18), s. 51, a tenant for life may grant

2. The option shall be exercised by a notice in writing of his intention to purchase sent by the purchaser to the vendor within the period aforesaid which notice to be effectual must be accompanied by the payment by the purchaser to the vendor of a sum of £—— by way of deposit.

3. The purchase shall be completed at —— the office of the vendor's solicitors Messrs. —— on the expiration of one calendar month after the date of the notice exercising the said option and on such completion the purchaser shall pay the balance of his said purchase price and the vendor and all other necessary parties (if any) will execute a proper assurance of the property to the purchaser such assurance to be prepared and perfected by and at the expense of the purchaser save as to the execution thereof by the vendor.

4. If the purchaser shall exercise the said option and duly complete the said purchase according to this agreement the vendor shall give credit to the purchaser on account of the said purchase price for the said sum of £—— [*the price paid for the option*] and the amount of the said deposit. If the purchaser shall not exercise the said option the said sum of £—— shall belong to the vendor absolutely and if the purchaser shall exercise the said option but shall subsequently fail to complete the said purchase in accordance with this agreement the said sum of £—— and the said deposit shall become the absolute property of the vendor who may resell the property as he shall think fit and recover the expenses and any deficiency in price on such resale (after giving credit for the said deposit but not the said sum of £——) from the purchaser as liquidated damages.

5–10. [*Clauses as to commencement of title, requisitions, tenancies, easements, identity, misdescription, as in Form* 193, *clauses* 4–9 *inclusive,* pp. 352 *et seq., supra.*]

11. If the purchaser shall insist upon any requisition or objection which the vendor on the ground of expense delay or other reasonable ground shall be unable or unwilling to satisfy the vendor may by notice in writing decline to proceed further in the matter of the said sale and unless the purchaser shall in writing withdraw such requisition or objection within [7] days after the date of such notice this agreement shall determine and the vendor shall forthwith return the said deposit to the purchaser in satisfaction of all claims by him for costs compensation interest or otherwise but shall be at liberty to retain the said sum of £—— [*price paid for option*] for his own absolute benefit. The vendor's power of rescission under this clause may be exercised notwithstanding any attempt by him to satisfy such requisition or objection or any negotiation or litigation [or adverse judicial decision] relating thereto.

12–14. [*Clauses as to interest, possession and trust of policy of assurance as in Form* 193, *clauses* 13, 14, *and* 15, pp. 357 *et seq., substituting in clauses* 14 *and* 15 the date of the notice exercising the said option *for* the date of this agreement.]

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by writing an option to purchase or take a lease within an agreed number of years not exceeding ten.

An option to purchase should be registered as a land charge under the Land Charges Act, 1925 (15 Geo. 5 c. 22), s. 10 (1), Class C (iv).

15. Any notice under this agreement shall be served or given in the manner provided by the Law of Property Act, 1925, s. 196.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

207.

AGREEMENT for Sale of Freeholds by a Mortgagee (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra.*]

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase for the price of £—— of which the purchaser has this day paid a sum of £—— to the vendor as a deposit the fee simple in possession free from incumbrances of ALL THOSE [*parcels as in the mortgage deed*].

2. [*Clause as to fixtures &c. which may be included in the mortgage as in Form* 193, *clause* 3, p. 352, *supra.*]

3. Completion of the purchase shall take place at the office No. —— Street —— of Messrs. —— the vendor's solicitors on the —— day of —— next at which time and place the purchaser shall pay the balance of his said purchase-money to the vendor and the vendor shall execute a proper assurance of the property to the purchaser, such assurance to be prepared and perfected in all respects by and at the expense of the purchaser save as to the execution thereof by the vendor.

4. The vendor is selling as mortgagee of the property in exercise of an express [*or* the statutory] power of sale, and will convey as such and the purchaser shall assume that the vendor is entitled to sell in exercise of such power and to give a valid receipt for the purchase-money and shall not require the concurrence of any person interested in the right of redemption in the property.

5–11. [*Clauses as to commencement of title, requisitions, tenancies, easements, identity, misdescription, and vendor's power of rescission as in Form* 193, *clauses* 4 *to* 10, pp. 352 *et seq., supra.*]

12–14. [*Clauses as to interest and possession and forfeiture of deposit as in Form* 193, *clauses* 13, 14, and 16, pp. 357 *et seq., supra, omitting from clause* 14 *(unless the vendor is mortgagee in possession) the words in square brackets referring to local authorities.*]

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

(*c*) Stamp 6*d*. As to the realisation of freehold mortgages, see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 88, and as to a mortgagee's power of sale, see *ibid.* ss. 101–107.

208.

AGREEMENT for Sale of an Estate for Life in Freeholds and a Policy of Assurance. Variations where Estate for Life is not in possession (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchaser will purchase FIRST the equitable estate for the life of the vendor [*or name of cestui que vie*] now aged —— years in possession [*or* in remainder expectant on the death of [*tenant for life in possession*] who is now aged —— years] free from incumbrances of and in ALL THOSE freehold hereditaments known as the —— estate situate &c. and more particularly described in the First Schedule hereto and SECONDLY the policy [*or* policies] of assurance particulars whereof are set forth in the Second Schedule hereto.

2. The price for the said purchase is £—— whereof £—— has this day been paid as a deposit by the purchaser to the vendor.

3. The title to the said life estate shall commence with a settlement dated the —— day of —— and made between [*parties*] [*or* with the will of [*testator*] of &c. deceased who died on the —— day of —— and the purchaser shall assume that the said [*testator*] was seised in fee simple in possession of the said hereditaments at his death and that the same passed by the said will].

4. The title to the said policy [*or* policies] shall commence with a mortgage [*or* conveyance] dated the —— day of —— and made between [*parties*] and on production of the receipt for the last premium payable in respect thereof the purchaser shall assume that the same is [*or* are] valid and subsisting.

5. The vendor will produce to the purchaser certificates of the birth of the vendor [*or* the said [*cestui que vie*]] [and of the said [*tenant for life in possession*]] and a statutory declaration to be made if required at the purchaser's expense as to the identity of the vendor [*or* the said [*cestui que vie*]] [*or* such persons] with the person [*or* persons] whose birth is so certified and no further evidence shall be required in this respect.

6–9. [*Clauses as to requisitions, identity, misdescription and vendor's power of rescission as in Form* 193, *clauses* 5, 7, 8, *and* 9 pp. 353 *et seq., supra.*]

10 & 11. [*Clauses as to completion and interest as in Form* 193, *clauses* 12 *and* 13, pp. 356 *et seq., supra.*]

12. The purchaser shall be entitled to the enjoyment of the property sold as from the date fixed for completion and shall bear all outgoings from the same date and all necessary apportionments shall be made.

(*d*) Stamp 6*d*. As to the effect of an assignment of the estate or interest of a tenant for life, see the Settled Land Act, 1925 (15 Geo. 5, c. 18), ss. 104–106, 111.

13. [*Clause as to forfeiture of deposit as in Form* 193, *clause* 16, p. 358, *supra.*]

14. The death of the vendor [*or* the said [*cestui que vie*] [*or* of the said [*tenant for life in possession*]]] before completion shall in no wise affect this sale.

AS WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of hereditaments.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

No. of Policy.	Date of Policy.	Name of Insurance Company.	Sum Insured.	Premium.	Event Insured against.
01756	—— day of ——	—— Assurance Company	£ ——	£ ——	Death of vendor or [*cestui que vie*].
[01757	—— day of ——	—— Assurance Company	£ ——	£ ——	Death of vendor or [*cestui que vie*] in lifetime of [*tenant for life in possession*]].

[*Signatures of vendor and purchaser.*]

209.

AGREEMENT for Sale of an Equitable Estate in Remainder in Freeholds. Variation for option of repurchase if tenant for life dies at an early date (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the equitable fee-simple in remainder free from incumbrances (*f*) expectant upon the death of [*tenant for life*] of, and in [*hereditaments as in Form* 208, p. 381, *supra*].

2. [*Clause as to price as in Form* 208, *clause* 2, p. 381, *supra.*]

3. [*Clause as to title as in Form* 208, *clause* 3, p. 381, *supra, omitting the words* to the said life estate, *or as in Form* 193, *clause* 4, p. 352, *supra.*]

4. [*Clause as to requisitions as in Form* 193, *clause* 5, p. 353, *supra.*]

5. The purchaser shall accept as conclusive evidence of the age of the said [*tenant for life*] the certificate of his birth on the —— day of ——,

(*e*) Stamp 6*d*.

(*f*) These words do not include death duties payable on the determination of the estate for life, which must be specially provided for (*Re Langham's Contract*, [1890] W. N. 213 ; 39 W. R. 156).

and a statutory declaration to be made, if required, at the purchaser's expense as to his identity.

[*Or* 5A. The said [*tenant for life*] is believed to have been born in the year —— [in the parish of —— and the county of ——] but in spite of an exhaustive search the vendor has been unable to obtain any definite evidence of the date of such birth [except an entry in a family bible *or* a statutory declaration of the fact by ——, who was formerly a nurse in the family of the said [*tenant for life*] and who is long since dead *or as the case may be*]. The purchaser shall accept as conclusive evidence of the date of such birth, a copy of the said entry duly verified by the vendor's statutory declaration [*or* the said statutory declaration of the said nurse *or as the case may be*] [*or if no other evidence is procurable* a statutory declaration to be made at the vendor's expense by some independent person who has been well acquainted with the said [*tenant for life*] that he is believed to be of the age of ——, or thereabouts.]

6–11. [*Clauses as to easements, identity, misdescription, vendor's power to rescind completion and interest as in Form* 193, *clauses* 7, 8, 9, 10, 12, *and* 13, pp. 354 *et seq., supra, omitting the words in square brackets at the end of clause* 12.]

12. Before completion the vendor will endeavour to procure a commutation of all death duties which may become payable on the death of the said [*tenant for life*] and pay the same and produce to the purchaser the certificate of such payment of the Commissioners of Inland Revenue. If such duties shall not be commuted and paid before the day fixed for completion the vendor will covenant by the assurance to the purchaser to pay the same and to indemnify the purchaser and the said hereditaments therefrom, and a sufficient part of the purchase-money shall be deposited in the —— Bank in the joint names of the vendor and purchaser as a fund to provide for such duties. Subject thereto such fund and the income thereof shall belong to the vendor.

13. The vendor will also in the said assurance covenant with the vendor to deliver to him so soon as the title deeds of the said hereditaments come into his possession such of the same as relate only to the property sold and to give the usual acknowledgment and undertaking in respect of the rest of such title deeds.

14. [*Clause as to forfeiture of deposit and resale as in Form* 193, *clause* 16, p. 358, *supra.*]

[15. If the said [*tenant for life*] shall die within the period of [2] years from the date of completion of this agreement and the vendor shall give the purchaser notice in writing within [one] month after such death of his desire to repurchase the property hereby sold and shall at the same time pay the purchaser a deposit of 10 per cent. of the price hereinafter mentioned, the purchaser will reconvey the said property to the vendor at the price of £——, completion to take place within [one] month after the date of such notice and the vendor to accept the purchaser's title without objection and in all other respects the provisions of this agreement shall so far as applicable apply to such resale with the substitution throughout of the name of the present vendor for that of the present purchaser

and *vice versâ*. This option shall be exercisable by the present vendor, his executors, administrators and assigns as against the present purchaser his executors, administrators and assigns [*or* but this option shall be exercisable only by the present vendor personally] (*g*).]

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of hereditaments.*]

[*Signatures of vendor and purchaser.*]

210.

AGREEMENT for Sale of Freeholds to a Sub-purchaser (*h*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*sub-vendor*] of &c. of the one part and [*purchaser*] of &c. of the other part.

WHEREAS by contract in writing dated the —— day of —— and made between [*original vendor*] of the one part and the said [*sub-vendor*] of the other part a copy whereof has been furnished to the said [*purchaser*] the said [*sub-vendor*] has agreed to purchase at the sum of £—— whereon he has paid a deposit of £——, ALL THAT freehold estate called —— situate at &c. and now in the occupation of [*tenant*].

AND WHEREAS the said [*purchaser*] has requested the said [*sub-vendor*] to sell the said hereditaments to him at the sum of £——.

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of the said sum of £—— now paid by the [*purchaser*] to the said [*sub-vendor*] by way of deposit the receipt whereof is hereby acknowledged the said [*sub-vendor*] hereby agrees with the said [*purchaser*] that on payment of the residue of the said purchase-money as hereinafter mentioned he will at the request and cost of the said [*purchaser*] cause to be conveyed the fee-simple of the said premises, free from all charges and incumbrances unto the said [*purchaser*] or as he shall direct such sale to be on the terms of the said contract except as herein varied.

2. The said [*purchaser*] hereby agrees that on having such conveyance of the said premises as aforesaid he will duly pay the residue of the said sum of £—— as to £—— thereof to the said [*original vendor*] according to the hereinbefore recited contract and as to the balance thereof to the said [*sub-vendor*] and will duly carry out the terms of such contract which are binding on the said [*sub-vendor*] in all other respects, and pay all costs and expenses whatsoever of attending and incident to the said purchase and to such conveyance as aforesaid.

(*g*) A clause of this kind is sometimes useful when the vendor wishes to raise money immediately and cannot keep down the interest on a mortgage and yet wishes to guard against the heavy loss to him if the tenant for life dies at an early date. The option should be registered as a land charge, see p. 379.

(*h*) Stamp 6*d*.

3. The said [*purchaser*] will at his own expense effectually indemnify the said [*sub-vendor*] from and against all losses damages costs and expenses whatsoever of and attending the conveyance of the said estate and otherwise in respect thereof and also from and against all actions and other proceedings whatsoever on account or in respect thereof under or by virtue of the said contract.

4. The said [*sub-vendor*] will if required join in the assurance to the said [*purchaser*] but shall not be required to enter into any covenant for title except a covenant that he has not incumbered.

5. If the said contract shall from any cause whatever not be duly performed, this contract shall become void and the deposit after deducting the sum (if any) which shall have become forfeited to the said [*original vendor*] pursuant to the said contract shall be repaid to the said [*purchaser*] by the said [*sub-vendor*] in full satisfaction of expenses incurred and all losses and damages sustained by him under or by virtue hereof.

IN WITNESS, &c. (*i*).

[*Signatures of both parties.*]

211.

AGREEMENT for Sale of Freehold and enfranchised Copyhold Land by Tenant for Life under the Settled Land Act, 1925. Variation where Property includes the principal Mansion, House and Lands usually occupied therewith (*j*).

AN AGREEMENT made the —— day of —— BETWEEN [*tenant for life*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the fee simple in possession free from incumbrances of ALL THOSE hereditaments specified

(*i*) Subsales are frequently effected by agreements which do not refer to the original agreement for sale, but are in the same form except as to the names of the parties as the original agreement. For a form of agreement where the vendor has already accepted the title of the original vendor, see Encyclopædia of Forms, 2nd Edn. vol 14, p. 340.

(*j*) Stamp 6*d*. A tenant for life or person having the powers of a tenant for life can, under the Settled Land Act, 1925 (15 Geo. 5, c. 18), ss. 38, 39, sell the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in relation thereto ; but the principal mansion house and the pleasure grounds, park, and lands, if any, usually occupied therewith cannot be sold without the consent of the trustees of the settlement, or an order of the court where, in settlements before the 1st of January, 1926, the settlement does not provide to the contrary or where, in settlements after that date, such consent or order is expressly required (*ibid.* s. 65 (1)). A house used as a farmhouse, or the site of which, with the pleasure grounds, &c., does not exceed twenty-five acres is not a principal mansion house within the meaning of that section (*ibid.* s. 65 (2)). A vesting deed must be executed in favour of the tenant for life before he can dispose of the legal estate (*ibid.* s. 13), and he must also give not less than one month's notice to the trustees of the settlement of his intention to sell (*ibid.* s. 101). A purchaser in good faith is not, however, concerned to inquire respecting the giving of any such notice, (*ibid.* s. 101 (5)).

in the First Schedule hereto and delineated and coloured [red] and [blue] on the plan hereto annexed all of which are comprised in a vesting deed dated the —— day of —— and made between [*parties*] [*or* in a settlement made by the will of [*testator*] formerly of &c. who died on the —— day of ——] [and which include the principal mansion house pleasure grounds park and lands usually occupied therewith which exceed 25 acres in all].

2. The price shall be £—— of which £—— has been paid by the purchaser to —— as a stakeholder [*or* has been deposited in the —— Bank in the joint names of the solicitors of the vendor and the purchaser as stakeholders (*k*)] at the purchaser's risk (*l*).

3. The mines and minerals of every kind under the hereditaments sold and full power to win work and get the same by underground workings are reserved by the vendor who shall, however, make full compensation for all injury to the surface caused by such workings such compensation to be ascertained by two arbitrators or their umpire pursuant to the Arbitration Act, 1889 (*m*).

4. The said price shall include the value of the fixtures in the said house and the timber and other trees growing on the said lands (*n*).

5. The title to the greater part of the property shall commence with a settlement dated the —— day of —— and made between [*parties*]. Certain parts of the property have from time to time been purchased and conveyed to the uses of such settlement and in respect of such parts the title shall in each case commence with the conveyance to the uses of such settlement. The land coloured [blue] on the said plan was formerly copyhold but became by virtue of the Law of Property Act, 1922, freehold subject to manorial incidents, no agreement for the extinguishment whereof has yet been made [*or* formerly of copyhold tenure but was in the year enfranchised]. The title to the copyhold interest therein shall commence with a surrender dated the —— day of —— and to the freehold interest therein with the deed of enfranchisement dated the —— day of —— [*prior to* 1926] and made between [*parties*]. [The mines and minerals under such last-mentioned land are not the property of the vendor (*o*)]. The title to any part of the said hereditaments prior to the date fixed for commencement of title shall not be investigated or objected to [*or clause as to commencement of title as in Form* 193, *clause* 4, p. 353, *supra*].

(*k*) A tenant for life is not a proper person to receive the deposit. As part of the purchase-money, the trustees are the persons to whom it must be ultimately paid, and until completion it should be held by a stakeholder (see *Edmonds* v. *Peake* (1843), 7 Beav. 239).

(*l*) In the absence of express stipulation, the vendor bears any loss which may accrue on the deposit (*Burroughes* v. *Browne* (1852), 9 Hare, 609; *St. Paul* v. *Birmingham, etc., Railway Co.* (1853), 11 Hare, 305).

(*m*) See Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 50, as to separate dealings with mines and minerals.

(*n*) *Ibid.* s. 49 (2), as to fixtures and timber.

(*o*) A statement that the land is enfranchised copyhold would not necessarily affect the purchaser with notice of the lord's right to minerals where the enfranchisement was made under the Copyhold Act, 1894 (57 & 58 Vict. c. 46); see *Bellamy* v. *Debenham*, [1891] 1 Ch. 412 *aliter*, where made under Law of Property Act, 1922.

6–11. [*Clauses as to requisitions, tenancies, easements, identity, misdescription and vendor's power of rescission as in Form* 193, *clauses* 5, 6A, 7, 8, 9, *and* 10, pp. 353 *et seq., supra.*]

12. Completion of the purchase shall take place on the —— day of —— at the offices of Mr. —— the vendor's [*or* the trustees'] solicitor at —— at which time and place the purchaser shall release the said deposit and pay the balance of the said purchase-money to the trustees of the said settlement and thereupon the vendor will execute a proper assurance of the property to the purchaser such assurance to be prepared and perfected [save as to execution thereof by the vendor and the said trustees] by and at the expense of the purchaser who &c. [*continue as in Form* 193, *clause* 12, p. 356, *supra*].

13. The vendor will convey as beneficial owner but the covenants thereby implied shall not extend to any equitable remainder expectant on his estate or the title to and further assurance of the property after the determination of his own estate except as to his own acts and defaults and the acts of persons deriving title through or in trust for him (*p*).

Or The vendor is the owner in fee simple of the property under a vesting deed affecting the same and will not give any covenants for title other than that implied by his being expressed to convey as trustee.

[14. This agreement is conditional upon the consent of the trustees of the settlement to the sale [*or* the sanction of the Court] being obtained by the vendor. If such consent [*or* sanction] shall not be obtained to this agreement (either in its present form or with such variations as the vendor and the purchaser shall agree) within [three] months of the date hereof this agreement shall become void. [In any event the costs of the application to the Court shall be borne by the vendor and the purchasers in equal shares [*or* each party hereto shall bear his own costs of such application.]]

15. The vendor or the said trustees will retain all title-deeds which do not exclusively relate to the property sold and will at the expense of the purchaser acknowledge his right to production and delivery of copies of the same.

16. [*Clauses as to interest, possession, trust of policies of insurance and forfeiture of deposit as in Form* 193, *Clauses* 13, 14, 15, *and* 16, pp. 357 *et seq., supra.*]

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Description of the Property.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of tenancies.*]

[*Signatures of tenant for life and purchaser.*]

(*p*) As to the effect of conveying "as tenant for life," see *Re Tyrrell* (1900), 82 L. T. 675.

212.

AGREEMENT for Purchase by Trustees of a Settlement for the Purposes of the Settled Land Act, 1925, of Freeholds belonging to the Tenant for Life (*q*).

AN AGREEMENT made the —— day of —— BETWEEN [tenant for life] of &c. (hereinafter called the vendor) of the one part and [*trustees*] of &c. (hereinafter called the purchasers) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The vendor will sell and the purchasers will buy the fee simple in possession subject to land tax and tithe rentcharge and all existing tenancies but free from incumbrances for the price of £—— ALL THAT [*parcels*].

2. The purchasers who are fully acquainted with the property and the title of the vendor thereto shall not require any abstract of such title or make any requisition or objection to such title or as to the identity or description of the said property or otherwise.

3. The purchase shall be completed at the office of —— the vendor's solicitors at —— on the —— day of —— next.

4. The purchasers are the trustees for the purposes of the Settled Land Act, 1925, of a principal vesting deed dated the —— day of —— and made between [*parties*] whereby certain hereditaments were vested in the vendor upon the trusts and subject to the powers and provisions of the will of [*testator*] of &c. deceased and are purchasing in pursuance of the powers conferred upon them by s. 68 of that Act out of capital moneys in their hands liable to be invested in the purchase of land.

5. On payment of the purchase-money the vendor will execute a subsidiary vesting deed declaring the said property to be vested in himself [in fee simple] upon and subject to the same trusts and powers as are declared referentially by the principal vesting deed with respect to the hereditaments comprised therein. Such deed and every other instrument or act required by the purchasers for effectually vesting the said property as aforesaid shall be prepared completed and done by and at the expense of the purchasers.

AS WITNESS, &c.

[*Signatures of both parties.*]

(*q*) Stamp 6*d*. See Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 68. This agreement does not require the sanction of the Court; nor would it require such sanction if the vendor were himself one of the trustees of the settlement; *aliter*, if the trustees were purchasing from the tenant for life and one of themselves, *ibid.*

213.

AGREEMENT for Sale of Freeholds of a Lunatic whether so found by Inquisition or not. Variation in the case of a Defective or where either is Tenant for Life (*r*).

AN AGREEMENT made the —— day of —— BETWEEN [*lunatic*] [*defective*] of &c. (hereinafter called the vendor) acting by [*committee*] [*receiver*] of &c. the duly appointed committee [*receiver*] of his estate of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1 and 2. [*Clauses as to sale and price as in Form* 193, *clauses* 1 *and* 2, p. 351, *supra, with the variations in square brackets in clause* 2.]

3. The purchaser shall also pay the value of all timber trees and growing wood down to the value of one shilling a stick and of the fixtures in the house such value to be ascertained by two valuers one to be appointed by the said [*committee*] on behalf of the vendor and one by the purchaser and in case of difference by their referee to be appointed by the said valuers before they enter on their valuation. The vendor and the purchaser shall each bear his expense of and incidental to the said valuation and such valuation shall be made forthwith and the approval of the Court of Lunacy obtained to the result thereof. When so approved the amount of such valuation shall for all purposes of this agreement be added to the said purchase price (*s*).

4-10. [*Clauses as to commencement of title, requisitions, tenancies, easements, &c., identity, misdescription and vendor's power of rescission as in Form* 193, *clauses* 4 *to* 10 *inclusive*, pp. 352 *et seq.*, *supra*.]

11. Completion of the purchase shall take place on the —— day of —— at the office, No. —— Street, of Messrs. ——, the vendor's solicitors. If from any cause whatever the purchase shall not be completed on that day the purchaser shall pay interest at the rate of £5 per cent. per annum

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(*r*) Stamp 6*d*. For forms of conveyance by a committee of a lunatic, and by a receiver of a person of unsound mind, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 15, p. 673, and for form of conveyance by lunatic tenant for life, see *ib.* p. 720. Neither a committee nor a receiver can sell the land of a person of unsound mind without the sanction of the Court of Lunacy (*Re Brown* (1849), 1 Mac. & G. 201), nor convey a legal estate in the land except with such sanction or by order of the Chancery Division or under a statutory power (as *e.g.* under the Lands Clauses Consolidation Act (8 & 9 Vict. c. 18), s. 7) : see Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 22, and Moore on Title, 6th Edn. p. 294. As to the power of the Court of Lunacy to direct a sale, see Lunacy Act, 1890 (53 & 54 Vict. c. 5), ss. 116, 120, as amended by Lunacy Act, 1908 (8 Edw. 7, c. 47), s. 1, and extended by the Mental Deficiency Act, 1913 (3 & 4 Geo. 5, c. 28), s. 64. For the definitions of "lunatic" and "defective," see Law of Property Act, 1925, s. 205 (1) (xiii), and as to a lunatic or defective tenant for life, see Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 28.

(*s*) As a rule the Court of Lunacy requires that its approval be obtained to the amount fixed by the valuers, and does not permit a committee to delegate the fixing of the price to the valuers.

upon the balance of the purchase-money from that day until actual completion.

12. The purchaser shall on or before the —— day of —— pay the balance of his purchase-money and authorise the said stakeholder to pay the said deposit into court to such credit as the Court of Lunacy shall direct [*or in the case of a lunatic or defective tenant for life* to the Settled Land Act trustees of the vesting deed affecting the property sold] and upon such payment the said [*committee*] in the name of the vendor will execute such assurance of the property to the purchaser as the Court of Lunacy shall approve as a proper assurance such assurance and every other deed act or thing required by the purchaser to be prepared perfected and done save as to the execution thereof by the said [*committee*] by and at the expense of the purchaser (*t*).

13–15. [*Clauses as to possession and trusts of policies of assurance and forfeiture of deposit as in Form* 193, *clauses* 14, 15, *and* 16, p. 357, *supra.*]

16. This agreement is conditional upon the approval thereof of the Court of Lunacy being obtained by the said [*committee*] at the expense of the vendor and the said [*committee*] shall use his best endeavours to obtain such approval before the —— day of —— next. Should such approval not be obtained before the —— day of —— or such later date as the said [*committee*] and the purchaser shall agree this agreement shall be void and the said deposit shall be released to the purchaser but without any interest costs or compensation whatever.

17. Any power vested in the vendor by this agreement may be exercised by the said [*committee*] in his name and on his behalf with the sanction of the Court of Lunacy first obtained and production of an office copy of any order directing or authorising the said [*committee*] to exercise any such power shall be conclusive evidence of the said [*committee's*] authority to exercise the same.

IN WITNESS, &c.

[*Add Schedules as in Form* 193, *p.* 358, *supra.*]

[*Signatures of vendor by* [*committee*] [*receiver*] his committee [*receiver*] *and of purchaser.*]

214.

AGREEMENT for Sale of Freeholds of a Bankrupt subject to a Lease (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*trustee in bankruptcy*] of &c. (hereinafter called the vendor) the trustee of the property of [*bankrupt*] a bankrupt of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

(*t*) See Law of Property Act, 1925, s. 22 (1).

(*a*) Stamp 6*d*. This sale is made pursuant to the power given by s. 55 of the Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59). Until a trustee is appointed the bankrupt's estate vests in the Official Receiver on the adjudication of the bankrupt (*ib.* s. 53)

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the fee simple free from incumbrances of [*parcels*] subject to a lease thereof granted by an indenture dated the —— day of —— and made between [*parties*] but with the benefit of the rent thereby reserved and the covenants on the part of the lessee therein contained.

2 to 11. [*Clauses as to price, commencement of title, requisitions, easements, identity, misdescription, vendor's power to rescind, completion, interest, and possession as in Form* 193, *clauses* 2, 4, 5, 7 to 10 *inclusive*, 12, 13, *and* 14, pp. 351 *et seq.*]

12. The said lease having been already produced to the purchaser he shall be deemed to have full notice of the contents and effect thereof.

13. The vendor is selling as trustee in the bankruptcy of the said [*bankrupt*] and shall not be required to enter into any covenant for title except such covenant as is implied by his conveying as trustee and the concurrence of any persons interested beneficially in the property or the purchase-money therefor shall not be required.

14. [*Clause as to forfeiture of deposit as in Form* 193, *clause* 16, p. 358, *supra.*]

IN WITNESS, &c.

[*Signatures of trustee in bankruptcy and purchaser.*]

215.

AGREEMENT for Sale of Freeholds registered with a Possessory Title under the Land Registration Act, 1925 (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase ALL THAT [*parcels as described in the register*] being [part of] the land comprised in Title No. ——, in —— parish, —— district in the City of London, in respect whereof the vendor is registered as proprietor with possessory title.

[1A. All mines and minerals excepted out of such registered title are excepted out of this sale.]

2 and 3. [*Clauses as to price and fixtures &c. as in Form* 193, *clauses* 2 *and* 3, p. 351, *supra.*]

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and he can, so long as he remains trustee, exercise the power of sale (*Turquand* v. *Board of Trade* (1886), 11 App. Cas. 286). This form will be applicable to such a sale, the vendor being described as one of the official receivers in bankruptcy, a short recital or statement of the bankruptcy being inserted. (See Moore on Title, 6th Edn. p. 256).

(*b*) Stamp 6*d*. See Land Registration Act, 1925 (15 Geo. 5, c. 21), ss. 20 (3), 110, and as to registration of title to land generally, see the Encyclopædia of Forms, 2nd Edn., vol. 13, pp. 121–272.

4. The title to the property prior to registration shall commence with a conveyance on sale dated the —— day of —— and made between [*parties*] [*or as the case may be: see Form* 193, *clause* 4, p. 352, *supra*]. As to the title since the —— day of ——, the date of first registration, the vendor will at his own expense furnish the purchaser with an authority to inspect the register and if required with a copy of the relevant entries and of the filed plan noted on the register (*c*) [and with an abstract of all estates, interests and incumbrances (if any) subsisting at the date of such first registration] and will also at the expense of the purchaser if he so requires make a statutory declaration to be confined to matters within the vendor's own knowledge as to the existence or non-existence of any overriding interests which by virtue of s. 70 of the Land Registration Act, 1925, are not to be treated as incumbrances subject to which the property is sold [*or* a statutory declaration that so far as the vendor is aware the property is not affected by any of the overriding interests mentioned in s. 70 of the Land Registration Act, 1925]. [*Or* the purchaser was registered as proprietor as aforesaid on the —— day of ——, and the purchaser shall not be entitled to any evidence of title [except as regards estates and interests and incumbrances (if any) subsisting at that date] other than a copy of the relevant entries on the register and of the filed plan and a statutory declaration to be made by the vendor at the purchaser's [*or* the vendor's] expense that so far as the vendor is aware, the property is not subject to any of the overriding interests mentioned in s. 70 of the Land Registration Act, 1925 [except land tax and tithe rent-charge [no apportionment whereof shall be required]].

[4A. The property is sold subject to an unregistered mortgage [*or* a registered charge] dated the —— day of —— and made between [*parties*] for securing £—— and interest thereon at £—— per cent. per annum.]

5. [*Clause as to requisitions as in Form* 193, *clause* 5, p. 353, *supra*.]

6. The vendor shall not be required to furnish any evidence of the identity of the property comprised in the documents offered as the title thereto down to the date of first registration with the property now sold except such as is afforded by the descriptions and plans in the said documents and the entries on the register and filed plan and a statutory declaration to be made at the purchaser's expense that the enjoyment thereof has for the past [20] years been consistent with the title shown.

7, 8. [*Clause as to misdescription and vendor's power to rescind as in Form* 193, *clauses* 9 *and* 10, pp. 354, 355, *supra*.]

9. The purchaser shall pay the [balance of his] said purchase-money on the —— day of —— at —— the office of Mr. —— the vendor's solicitor and thereupon the vendor and all other necessary parties (if any) will execute a proper transfer of the property to the purchaser and will hand the land certificate to him [*or if all the land comprised in the title is not sold* and will deliver the land certificate at the Land Registry to enable the purchaser's title to be registered]. Such transfer and all other deeds

(*c*) Where the purchase money does not exceed £1000, the costs of the copies of the entries and plan would, in the absence of this stipulation, fall on the purchaser: Land Registration Act, 1925 (15 Geo. 5, c. 21), s. 110 (1).

acts and things necessary to procure the registration of the purchaser as proprietor shall be prepared and done by and at the expense of the purchaser (except as to perusal and execution of such transfer by the vendor) such transfer and deeds to be left at the office of the vendor's said solicitor for approval at least [ten] days before the date fixed for completion (*d*).

10. [*Clause as to interest as in Form* 193, *clause* 13, p. 357, *supra.*]

[10A. The vendor shall at his own expense procure the consent to the registration of the purchaser of all persons whose consents are necessary and will if required by the purchaser forthwith after signing this agreement consent in writing to the lodging of a priority notice in favour of the purchaser and will deposit his land certificate for the purpose of registration of such priority notice (*e*).]

11–13. [*Clauses as to possession, trust of insurance policy, and forfeiture as in Form* 193, *clauses* 14–16, p. 357, *supra.*]

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

216.

AGREEMENT for Sale of Freeholds registered with an Absolute Title under the Land Registration Act, 1925 (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra.*]

WHEREBY IT IS AGREED as follows :—

1. [*Agreement for sale as in Form* 215, *clause* 1, p. 391, *supra, substituting the words* with absolute title *for the words* with possessory title.]

1A. [*Clause as to minerals as in Form* 215, *clause* 1A, p. 391, *supra.*]

2, 3. [*Clauses as to price and fixtures as in Form* 193, *clauses* 2 *and* 3, p. 351, *supra.*]

4. The vendor will furnish to the purchaser a copy of the registered entries relating to the property and a written authority to inspect the registered title to the property and a statutory declaration to be made by the vendor at the expense of the purchaser if he requires it that the property is not subject to any overriding interests which are by virtue of s. 70 of the Land Registration Act, 1925, not to be treated as incumbrances [except land tax and tithe rentcharge no apportionment whereof shall be required and the leases specified in the schedule hereto which have been produced to the purchaser who shall be deemed to have full notice of the contents thereof].

5. The property is sold according to the registered plan and the purchaser shall not require the boundaries of the property to be more clearly

(*d*) See Land Registration Act, 1925 (15 Geo. 5, c. 21), s. 110 (5), (6).

(*e*) As to priority notices, see Land Registration Rules, 1925, No. 88, and Schedule, Form 18. The priority notice should be lodged after the final search of the Register before completion.

(*f*) Stamp 6*d*. See note (*b*) on p. 391, *supra*.

defined than the same are defined in the said plan. [The plan hereto annexed is believed to be an accurate copy of such plan but no requisition or objection shall be made in respect thereof or if any discrepancy between such plan and the registered plan.]

6, 7. [*Clauses as to misdescription and vendor's power to rescind as in Form* 193, *clauses* 9 *and* 10, pp. 354, 355, *supra.*]

8. [*Clause as to transfer as in Form* 215, *clause* 9, p. 392, *supra.*]

9. [*Clause as to consents and priority notice as in Form* 215, *clause* 10A, p. 393, *supra.*]

10–13. [*Clauses as to interest possession, trust of insurance policy and forfeiture as in Form* 193, *clauses* 13–16, p. 357, *supra.*]

IN WITNESS, &c.

[THE SCHEDULE ABOVE REFERRED TO.]

[*Particulars of leases.*]

[*Signatures of vendor and purchaser.*]

217.

AGREEMENT for Sale of an Undivided Share of Freeholds by One Joint Tenant or Tenant in Common in Equity to another (*g*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase ALL THAT one undivided moiety [*or in the case of tenants in common* moiety *or* third *or* fifth share *or as the case may be*] to which the vendor is entitled in equity, of and in the hereditaments described in the First Schedule hereto [*or* of and in the proceeds of any sale thereof by the trustees in whom the said hereditaments are for the time being vested upon trust for sale.].

2. The said share is sold subject to a mortgage thereon for securing £—— and interest thereon at the rate of £[5] per cent. per annum effected by a deed dated the —— day of —— and made between [*parties*].

[*Or if the mortgage affects the entirety of the property* The entirety of the said property is subject to a mortgage for securing £—— and interest at the rate of £[5] per cent. per annum effected by a deed dated the —— day of —— and made between [*parties*] and the said share is sold subject to all claims and demands thereunder].

3. [*Clause as to price as in Form* 193, *clause* 2, p. 351, *supra.*]

(*g*) Stamp 6*d*. As to undivided shares and joint ownership, see the Law of Property Act, 1925 (15 Geo. 5, c. 20), ss. 34–36, and Sch. 1, Part IV. as amended by the Law of Property Amendment Act, 1926 (16 and 17 Geo. 5, c. 11), s. 7, Sch.

4. The vendor's title being well known to the purchaser shall be accepted by him without objection [*or in the case of tenants in common when the titles to the various shares are in some respects different.*] The purchaser shall not require any abstract of or make any requisition in respect of the vendor's title prior to the —— day of —— [*the date when the titles became different*].

5–7. [*Clauses as to requisitions, tenancies and easements as in Form* 193, *clauses* 5–7, pp. 353 *et seq., supra.*]

8. The purchase shall be completed on the —— day of —— next at —— the office of Messrs. —— the vendor's solicitors and upon payment by the purchaser of the balance of the said purchase-money the vendor and all other necessary parties (if any) will execute an appropriate assurance of the said share to the purchaser such assurance (except as to the vendor's execution thereof) and all other acts and things necessary or proper for vesting the said share in the purchaser to be prepared and done by him at his own expense.

9, 10. [*Clauses as to vendor's power of rescission and interest as in Form* 193, *clauses* 10 and 13, pp. 355, 357, *supra.*]

11. Upon completion of the purchase the purchaser shall be entitled in equity to possession or receipt of the rents and profits of the vendor's said share of the said hereditaments and shall be liable for all outgoings in respect thereof [including an appropriate share of all liability under the said mortgage of the entirety thereof] as from the date hereby fixed for completion and all necessary apportionments and payments shall be made to carry this clause into effect.

11A. [Add, if the vendor is one of the trustees for sale] Upon completion of the purchase or as soon afterwards as conveniently may be the vendor will retire from the trust for sale and will procure the purchaser to be appointed as a trustee in his place or stead.

12. The purchaser shall repay to the vendor all moneys expended by him in complying in whole or in part with any requirement of any local authority in respect of the property or any roads streets or sewers adjoining the same or otherwise of which notice may be given by such authority after the date of this agreement.

13. [*Clause as to forfeiture of deposit as in Form* 193, *clause* 16, *p.* 358, *supra.*]

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Parcels.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Tenancies.*]

[*Signatures of vendor and purchaser.*]

218.

AGREEMENT for Sale of Enfranchised Land prior to the 1st of January, 1926, of Copyhold or Customary Tenure subject to Manorial Incidents. Variation where an Estate for lives or for years determinable with lives without right of renewal was subsisting immediately before that date (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the freehold hereditaments situate at —— in the parish of —— and the county of —— which are particularly described in the schedule hereto and are delineated on the plan hereto annexed and thereon coloured [red] and which are described in the court rolls of the manor of —— of which the same were formerly held as ALL THAT ancient tenement called [—— living] with loft and toft thereunto belonging containing by estimation —— customary acres (more or less) situate within and formerly part of the said manor.

2. The estate in the said hereditaments which is the subject of this sale is the freehold estate in fee simple in possession which became vested in the vendor by virtue of the Law of Property Act, 1922, subject to the heriots rents fines and other manorial incidents saved by that Act [*or* is an estate for the residue of a term of ninety years arising by the joint operation of the Law of Property Acts, 1922 and 1925, and determinable by notice on the death of the survivor of [*cestuis que vie*]]. The persons for whose lives such estate continues are [believed to be] respectively aged —— years [—— years] and —— years [but the vendor shall not be obliged to prove such ages or the existence of the said persons or any of them(*i*)].

(*h*) Stamp 6*d*. Under the provisions of Part V. of the Law of Property Act, 1922 (12 & 13 Geo. 5, c. 16), ss. 128–137, all land of copyhold or customary tenure became (as from the 1st of January, 1926 : Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 202) freehold and modes of customary assurance were abolished. Where immediately before that date estates were subsisting in copyholds for life or lives, or for years, whether or not determinable with life, and the tenant had a right of perpetual renewal, the freehold estate in fee simple vested, as from that date and subject to the provisions of Schedule XII. of the Law of Property Act, 1922, in the tenant (not being a mortgagee) as if he had been a copyholder in fee. Where the like estates subsisted immediately before that date without right of renewal, they were, as from that date, converted into leasehold interests for a life or lives, or for years determinable on the cesser of a life, or for a corresponding legal term of years absolute, as the case may be ; and take effect as terms of 90 years determinable by notice as mentioned in the Law of Property Act, 1925, s. 149 (6). Land enfranchised by virtue of Part V. of the 1922 Act remains subject to manorial incidents, until they are extinguished under the provisions of Part VI. (*ibid.* s. 128 (2)).

(*i*) As a rule the vendor will have to furnish evidence of the existence of such lives, in which case the words in square brackets will be omitted, and Clause 5A as to the ages of the *cestuis que vie* inserted. Note that the clause contemplates a sale after the 1st of January, 1926, by an owner, who acquired the property before that date.

[2A. The vendor will also sell and the purchaser will buy all that policy of assurance for £—— effected with the —— Assurance Company on the lives of the said [*cestuis que vie*] dated the —— day of —— and numbered —— under the annual premium of £—— and all bonuses and additions now or hereafter to become payable in respect thereof.]

3. [*Clause as to price as in Form* 193, *clause* 2, p. 351, *supra*.]

4. [*Clause as to fixtures and timber* (*k*) *if applicable as in Form* 193, *clause* 3, p. 352, *supra*.]

[4A. The mines and minerals in or under the property do not belong to the vendor and are not included in the present sale.]

5. The title to the property shall commence with a surrender thereof dated the —— day of —— and an admittance made in pursuance thereof [*or* the title shall commence with a covenant to surrender by way of mortgage dated the —— day of —— and made between [*parties*] and an admittance of the mortgagee in pursuance thereof and the purchaser shall assume that prior to the said admittance the premises were duly surrendered in pursuance of such covenant (*l*)] [*or* The title shall commence with the will dated the —— day of —— of a testator who died on the —— day of —— and the purchaser shall assume that the said testator was at his death seised in customary fee simple [*or* for the lives of [*cestuis que vie*] and the survivors or survivor of them *or* for the residue then expired of a term of —— years determinable on the death of the survivor of [*cestuis que vie*]] free from incumbrances.

[5A. *Clause as to title to policy and ages of* [*cestuis que vie*] *as in Form* 208, *clauses* 4 *and* 5, p. 381, *supra* (*mutatis mutandis*).]

6. [*Clause as to requisitions as in Form* 193, *clause* 5, p. 353, *supra*.]

[6A. The purchaser shall accept as conclusive evidence that the said lease for lives [*or* for years determinable on lives] was validly granted according to the custom of the said manor a written statement to that effect by Mr. —— the present steward of the said manor (*m*).

7–9. [*Clauses as to identity and misdescription and vendor's power to rescind as in Form* 193, *clauses*, 8, 9 *and* 10, pp. 354 *et seq.*, *supra*.]

10. Completion of the purchase shall take place on the —— day of —— next at No. —— Street —— the office of Mr. —— the vendor's solicitor and upon payment by the purchaser of the balance of the said purchase price the vendor and all other necessary parties (if any) will assure the property to the purchaser subject to the rents fines heriots and other manorial incidents (if any) affecting the same but otherwise free from incumbrances. The purchaser shall pay all expenses of and incidental to such assurance (except as to the execution thereof by the vendor) and

(*k*) The timber on a copyhold property does not usually belong to the copyholder: see Halsbury's Laws of England, title "Copyholds," vol. 8, p. 24. Timber rights are not affected by enfranchisement under the Law of Property Act, 1922: see s. 128 (2).

(*l*) See *Wilson* v. *Allen* (1820), 1 Jac. & Walk. 611.

(*m*) Except by custom a lease of copyholds exceeding one year was a ground of forfeiture, if the lord had not given his licence; but see now Law of Property Act, 1922, s. 128 (2) (*c*), which is not retrospective.

shall pay all fines reliefs heriots rents and fees payable in respect of this sale [and any arrears thereof in respect of any former transaction affecting the property] (*n*).

11–13. [*Clauses as to interest, possession, trust of policies as to Form* 193, *clauses* 13, 14, *and* 15, p. 357, *supra.*]

14. [*Clause as to forfeiture of deposit as in Form* 193, *clause* 16, p. 358, *supra.*]

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Description of hereditaments.*]

[*Signatures of both parties.*]

219.

AGREEMENT for Sale of Enfranchised Land after the 1st of January, 1926, where the Manorial Incidents have been extinguished—Price to be paid by Instalments (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy the fee simple in possession free from incumbrances but subject as hereinafter mentioned of ALL THOSE [five] closes of land containing by estimation —— acres or thereabouts situate at —— in the parish of —— in the county of —— which are delineated on the plan hereto annexed and thereon edged with [blue] and are more particularly described in the Schedule hereto, all which hereditaments are in the court rolls of the manor of —— of which the same were formerly held described as follows [*add description from court rolls*].

2. The price for the said purchase is £—— to be paid by the purchaser to the vendor in manner following : £—— shall be paid on the —— day of —— next and a further sum of £—— shall be paid on every —— day of —— and —— day of —— until the whole price shall have been satisfied. The purchaser shall in like manner on every of such last-mentioned days pay to the vendor interest at the rate of £5 per cent. per annum on so much of the price as shall for the time being remain unpaid such interest to be computed from the said —— day of —— next or from the last preceding half-yearly day as the case may be.

(*n*) The assurance must be produced to the steward of the manor within six months from the date of its execution or within such extended period as the Court allows, for the purpose of being endorsed by him (upon payment of the fines &c.), with the prescribed certificate. If not produced within the time allowed, the assurance will become void as regards the conveyance of a legal estate (Law of Property Act, 1922 (12 & 13 Geo. 5, c. 16), s. 129. As to registered land, see *ibid.* s. 129 (5), (6).

(*o*) Stamp 6*d.*

3. In the event of default being made in payment of any instalment of principal or interest under clause 2 hereof for 21 days after the due date of payment the whole of the unpaid instalments shall become immediately payable to the vendor and the vendor may enforce in such manner as he shall think fit his lien in respect of such unpaid price.

4. The purchaser may on any day hereinbefore appointed for payment of any instalment upon giving [one] month's previous notice in writing to the vendor of his intention so to do and upon payment of all interest accrued due up to such day pay the whole balance of the purchase-money then unpaid.

5. [*If the instalments are to be secured by mortgage add:* Immediately after the assurance of the property to the purchaser he shall execute a legal mortgage thereof by demise for a term of 3000 years [*or* a charge by way of legal mortgage] in favour of the vendor to secure the unpaid instalments of the said purchase price with interest at the rate aforesaid for the purpose of giving effect to clauses 2, 3, and 4 hereof, such mortgage [or charge] to contain such covenants and provisions and generally to be in such form as the vendor's solicitor shall think fit.]

6. [*Commencement of title as in Form* 218, *clause* 5, p. 397, *supra, omitting the last variation in square brackets.*]

7. The manorial incidents and the lord's mining, sporting and other rights formerly affecting the property were extinguished by a compensation agreement [*or* notice requiring the ascertainment of such compensation (*p*)] dated the —— day of —— and the purchaser shall take subject to that agreement [*or* notice] and the sum [*or* sums] for the time being remaining unpaid thereunder and to the statutory charge [*or* the terminable and variable rent charge] for securing the same (*q*).

8–11. [*Clauses as to requisitions, identity, misdescription and vendor's power to rescind as in Form* 193, *clauses* 5, 8, 9, *and* 10, p. 353 *et seq., supra.*]

12. Completion of the purchase shall take place on —— day of —— next at No. —— Street —— the office of Mr. —— the vendor's solicitor and upon payment by the purchaser of the balance of the said purchase price the vendor will assure the property to the purchaser subject to the said compensation agreement [*or* notice] and the sums payable thereunder and to the statutory charge [*or* terminable and variable rentcharge] for securing the same but otherwise free from incumbrances, such assurance to be prepared and perfected (save as to the execution thereof by the vendor) by and at the expense of the purchaser.

(*p*) See Law of Property Act, 1922, s. 138 (1) (*b*).

(*q*) On a sale of land free from manorial incidents the purchaser cannot, in the absence of contrary stipulation, call for the title of the person entering into a compensation agreement or giving a receipt for the compensation money to enter into such agreement or to give such receipt; nor has the purchaser constructive notice of any matter or thing which he might have discovered, if he had stipulated for such title to be furnished: Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 44 (7).

13–15. [*Clauses as to interest, possession, and forfeiture of deposit* (*r*) *as in Form* 193, *clauses* 13, 14, *and* 16, pp. 357 *et seq., supra.*]

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Description of lands.*]

[*Signatures of both parties.*]

220.

AGREEMENT for Compensation for Extinguishment of Manorial Incidents. Variations for payment by gross sum or instalments and for full or partial satisfaction by the tenant's release of mineral rights and grant of mining facilities (*s*).

AN AGREEMENT made the —— day of —— BETWEEN [*lord*] of &c. lord of the manor of —— in the county of —— (hereinafter called the lord) of the first part [*Settled Land Act, trustees of the Vesting Deed affecting the said manor*] of &c. of the second part [*owner of land affected by manorial incidents*] of &c. owner of the land described in the First Schedule hereto, formerly copyhold of the said manor but now enfranchised by virtue of the Law of Property Act, 1922 (hereinafter called the tenant) of the third part.

WITNESSETH as follows:—

1. It is agreed that the compensation for the extinguishment of the manorial incidents saved by Part V. of the said Act affecting the said land [and of the rights of the lord in or to any mines and minerals in or

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(*r*) See *Harrison* v. *Holland and Hannen and Cubitts, Ltd.*, [1922] 1 K. B. 211, C. A.

(*s*) No stamp is required (Law of Property Act, 1922 (12 & 13 Geo. 5, c. 16), s. 139 (1) (vii)), unless the agreement includes the mines and minerals &c., in which case *ad valorem* duty is payable on so much of the consideration money as is attributable to such rights and it is prudent to have the stamp adjudicated. This form is based upon the form (No. 1) given in Schedule XIII. of the Act (see *ibid.* s. 138 (11)). The proper parties to such agreement are the persons who on a sale would be able to dispose of the manorial incidents and the land affected thereby respectively and give a receipt for the purchase money (*ibid.* s. 138 (3) (8)). If the compensation is payable by instalments, the agreement should be executed in duplicate and, where it contains (as in this Form) a release of the tenant's mineral rights and a grant by him of mining facilities, should also be under seal. Unless previously extinguished, upon the execution of a compensation agreement or upon service by the lord upon the tenant or *vice versâ* of a notice requiring the ascertainment of the compensation by the Minister of Agriculture and Fisheries (the lord, however, cannot serve such notice before the 1st January, 1931), manorial incidents become automatically extinguished on the expiration of ten years from the 1st of January, 1926 (*ibid.* s. 138 (1)). Nevertheless, the lord or the tenant may, at any time within five years from the 1st January, 1926, apply to the minister to fix the amount of the compensation in accordance with the provisions of the Copyhold Act, 1894 (57 & 58 Vict. c. 46), as modified and applied by Part VI. of the Law of Property Act, 1922. But if no such application is made within that period, no compensation will be payable thereafter (*ibid.* s. 140). Compensation, unless otherwise agreed, must be ascertained, in accordance with the scale set out in Part II. of Schedule XIII. of the Act, subject to the power of the minister, in exceptional cases, to vary the scale or modify the incidence of the compensation (*ibid.* s. 139 (viii)).

under the said land and the sporting and other rights affecting the same preserved by the Twelfth Schedule to that Act (*t*)] shall be the sum (*a*) of £—— *either* the whole of which sum shall be deemed to be satisfied and discharged in consideration of the release and grant hereinafter contained *or* whereof £—— part thereof shall be deemed to be satisfied and discharged in consideration of the release and grant hereinafter contained and £—— balance thereof shall be paid on the execution of this agreement and if not then paid shall carry interest payable half-yearly at the rate of £5½ per cent. per annum from the date hereof until paid [*Or* shall be the principal sum of £—— to be paid by twenty equal instalments (*b*) of £—— each the first instalment of £—— to be paid on the first day of January next with interest at £5½ per cent. per annum on the said principal sum from the date hereof and a further instalment of £—— with interest at the like rate on so much of the said principal sum as for the time being remains unpaid on every subsequent first day of January until the said principal sum shall be fully satisfied (all interest up to date being paid with the instalments)].

[2. *Where sum is payable by instalments.* So long as any of the said instalments and interest remain payable a terminable and variable rentcharge commencing from the date hereof and accruing from day to day but payable at the same time as the instalments and interest shall issue out of the said land [*or if the rentcharge is to be charged on part only of the land* out of the part of the said land described in the first part of the First Schedule hereto] of an amount equal to the said instalments and interest from time to time payable and so as to secure the same.]

[3. Pursuant to the agreement hereinbefore contained and in consideration of the said extinguishment the tenant as beneficial owner hereby conveys and releases unto the lord ALL SUCH estate and interest as the tenant has in the mines and minerals in or under the said land TOGETHER with full liberty and power at any time hereafter for the lord and his sucessors in title and his and their respective agents and workmen to search for, win, work and carry away the said mines and minerals by underground workings only and without entry upon the surface of the said land, but without obligation to leave support for the surface or any buildings for the time being standing thereon upon condition nevertheless of paying to the tenant and his successors in title and the occupier for the time being of the said land reasonable compensation (to be settled in case of dispute by arbitration under the Arbitration Act, 1889, or any statutory modification thereof) for any damage to the surface of the said land arising

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(*t*) The parties to a compensation agreement may also agree that any right of the lord preserved by Schedule XII. of the Act shall be treated as a manorial incident and extinguished accordingly; and if the agreement provides for the extinguishment of the lord's mineral rights, it operates, subject to the terms thereof, to convey the same to the tenant although it may not be under seal (*ibid.* s. 138 (12)). The words in square brackets will, of course, be omitted, so far as they refer to the lord's mineral rights, if clause 3 is inserted.

(*a*) Where the compensation is a single gross sum the land is deemed to be charged with payment thereof from the date of the extinguishment until paid (*ibid.* s. 138 (7)).

(*b*) But in certain cases payment of compensation by instalments, unless by order of the Court, is not permitted (*ibid.* s. 139 (1) (v)).

from the exercise of the liberties powers and rights hereby granted To HOLD unto the lord in fee simple upon and subject to the same trusts and powers as are declared referentially by a principal vesting deed dated the —— day of —— and made between [*parties*] with respect to the said manor].

4. The lord hereby acknowledges the right of the tenant to production of the documents mentioned in the first part of the Second Schedule hereto and to delivery of copies thereof and hereby undertakes for the safe custody thereof.

5. [Add a similar clause as to the tenant's documents of title *mutatis mutandis*].

6. The steward's compensation and all costs and expenses paid or incurred by the lord and recoverable from the tenant in respect of the said extinguishment have been included in the [principal] sum of £—— aforesaid (*c*).

7. This agreement is made pursuant to the Law of Property Act, 1922, and is intended to operate and have effect accordingly.

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

PART I.

[*Description of the land affected by manorial incidents and hereby charged with the variable rentcharge* (*d*)].

PART II.

[*Description of the land affected by manorial incidents and not so charged* (*d*)].

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of documents retained by the lord and tenant respectively*].

[*Signatures* [*and seals*] *of all parties* (*e*)].

221.

AGREEMENT for Sale of Leaseholds where consent of Lessor is not required. Variation where sale is of part of premises comprised in lease or underlease (*f*).

AN AGREEMENT made —— the day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

(*c*) See *ibid.* s. 139 (1) (iv).

(*d*) This description will be taken from the Court Rolls, unless a new description is agreed to. The additional costs of a new description or of a plan fall, unless otherwise agreed, on the party requiring the same. As to power to inspect the rolls, see *ibid.* s. 144, and s. 144A, added by the Law of Property (Amendment) Act, 1924, Sch. II. para. 2.

(*e*) See note (*a*) p. 400, *supra*. Where the compensation is paid in a single gross sum, the agreement will be endorsed with a receipt in the form (No. 2), given in Schedule XIII. of the Act, signed by the proper parties (see *ibid.* 138 (8)). Where the compensation is to be paid by instalments, separate receipts will be given as and when each instalment is paid and paragraph 2 will be omitted from the endorsed receipt.

(*f*) Stamp 6*d*.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase ALL THAT leasehold messuage and premises known as [No. —— Street in the City of London] for the residue now unexpired of a term of —— years granted by a lease [*or*, underlease] dated the —— day of —— and made between [*parties*] subject nevertheless to the [apportioned] yearly rent of £—— [being part of the rent of £—— reserved by the said lease [*or* underlease]] and the covenants on the part of the lessee [*or* underlessee] and conditions therein contained [so far as the same relate to the property hereby sold].

2. The price for the said purchase shall be £—— [of which the purchaser has this day paid a deposit of £—— and the balance of] which shall be paid by the purchaser on the date hereinafter fixed for completion.

3. [*Clause as to fixtures as in Form* 193, *clause* 3, p. 352, *supra*.]

4. The title to the property shall commence with the said lease [*or* underlease] which has already been produced to the purchaser who buys with full knowledge of the contents thereof [and who shall not be entitled to call for production of the title to the lease out of which the said underlease is derived (*g*) and no requisition or objection shall be made in respect of such title] [nor shall the purchaser require a legal apportionment of the rent reserved by the said lease [*or* underlease] or the consent of the lessor to the apportionment hereby made].

5. The production of the receipt for the last payment of rent due before the day fixed for completion under the said lease [*or* underlease] shall be accepted by the purchaser as conclusive evidence that all rent payable under the said lease [or the said underlease and every superior lease] has been paid and all covenants therein contained have been performed or any breach thereof waived down to the date of completion and the title of the person purporting to sign such receipt shall be assumed to be effectual for all purposes.

6, 7 & 8. [*Clauses as to requisitions, identity and misdescription if required, as in Form* 193, *clauses* 5, 8, *and* 9, pp. 353 *et seq., supra*.]

9. [*Vendor's power of rescission as in Form* 193, *clause* 10, p. 355, *supra*.]

10. The purchase shall be completed on the —— day of —— next at No. —— Street —— the office of Messrs. —— the vendor's solicitors at which time and place the purchaser shall pay the [balance of] the said purchase price and thereupon the vendor will execute a proper assignment of the property to the purchaser such assignment to be prepared and perfected (save as to the execution thereof by the vendor) by and at the expense of the purchaser and the draft thereof to be left for approval at

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(*g*) The purchaser cannot call for the title to the freehold reversion, or to the leasehold reversion (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 44 (2) (3)). But he will not be affected with notice of any matter of which if he had contracted for such title to be furnished, he might have had notice (*ibid.* s. 44 (5), altering the law laid down in *Patman* v. *Harland* (1881), 17 Ch. D. 353. The words in square brackets may be introduced on a sale of an underlease to meet any requisition based on *Gosling* v. *Woolf*, [1893] 1 Q. B. 39.

least [10] days and the engrossment whereof at least [five] days at the office of the vendor's solicitor before the said —— day of ——.

11. [By way of extension of the covenants implied on the part of the vendor and the purchaser respectively by section 77 of the Law of Property Act, 1925 (*h*), the assignment shall contain provision that all moneys payable by way of indemnity under the said implied covenants shall be charged upon the premises respectively sold and retained as the case may require.]

12 & 13. [*Clauses as to interest and possession as in Form* 193, *clauses* 13 *and* 14, p. 357, *supra*.]

14 & 15 [*Clauses as to trusts of policy of insurance and forfeiture of deposit as in Form* 193, *clauses* 15 *and* 16, p. 357, *supra*.]

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

222.

AGREEMENT for Sale of Leaseholds where Lessor's consent is required. Various special stipulations as to title (*i*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase ALL THOSE hereditaments known as —— and situate at —— which are particularly described in the schedule hereto and are delineated on the plan hereto annexed and thereon coloured [red] for the unexpired residue of a term of [99] years [less [3] days] granted by a lease [*or* underlease] dated the —— day of —— and made between [*parties*] subject to [the yearly rent of £—— and] the covenants on the part of the lessee and conditions therein reserved and contained.

2 & 3. [*Clauses as to price and fixtures as in Form* 193, *clauses* 2 *and* 3, pp. 351, 352, *supra*.]

4. The title shall commence with the said lease [*or* underlease] a copy whereof has been produced to the purchaser who has full notice of the contents thereof and no requisition or objection shall be made in respect of the title to any reversion in the said property [*or* The abstract of title shall commence with the said lease dated the —— day of —— and

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(*h*) 15 Geo. 5, c. 20, s. 77 (1) (D) and Part X of the 2nd Schedule thereto. The implied covenants may be varied or extended by deed (*ibid.* s. 77 (6) (7). As to the mutual powers of distress and entry in case of default, see *ibid.* s. 190 (3) ; the former doubts concerning the validity of which are removed by s. 162 (1) (*a*) and s. 189 (1). By s. 190 (4), mutual powers are given to take possession of the income of the premises in respect of which default is made until (subject to the duration of the term) the unpaid rent and all costs or damages are fully paid. The remedies given by s. 190 (3) (4) are not affected by the rule against perpetuities (s. 190 (8) ; but they apply if and so far as a contrary intention is not expressed in the conveyance (s. 190 (6)).

(*i*) Stamp 6*d*.

shall continue with an assignment thereof dated the —— day of —— as from which date the vendor will deduce the title to the property. The purchaser shall assume that such last-mentioned deed duly vested the residue then unexpired of the said term of years in the person therein named as assignee thereof and shall make no requisition or objection in respect of the title between the dates of the said lease [*or* underlease] and the said assignment].

[*Or* The said lease is not in the vendor's possession nor has he any knowledge in whose possession the same is. No rent has ever been paid by the vendor or so far as he can discover by his predecessors in title and the vendor is not aware of any covenants in the said lease restrictive of the user of the premises by the lessee. The title shall commence with an assignment dated the —— day of —— and made between [*parties*] which the purchaser shall assume validly vested the residue then unexpired of the said term in the person therein named as assignee and no requisition or objection shall be made as to the validity or contents of the said lease or the title thereto prior to the said assignment.]

[*Or* The title shall commence with the said lease of the —— day of —— which purports to be granted in consideration of the surrender of an earlier lease [and of the payment of a premium]. The purchaser shall not inquire into the title to the said surrendered lease or question the validity of the said lease of the —— day of —— (*k*).]

[*Or* The title shall commence with the said lease of the —— day of —— and no requisition or objection shall be made on the ground that the said lease comprises property other than that now sold and that no legal or other apportionment has been made of the rent thereby reserved.]

[*Or* The title shall commence with the said lease which [as appears from the abstract to be furnished] became in the year —— the property of a partnership and was assigned subsequently by the surviving partner[s]. The purchaser shall not inquire into the terms of such partnership or question the right of such surviving partner[s] to make such assignment.]

[*Or if death of assignee occurred before* 1926, The title shall commence with the said lease. The term of years thereby created subsequently became vested in a person who died on the —— day of —— having by will beneficially bequeathed the same. The persons to whom the same was so bequeathed subsequently assigned the said term, but the executors of the said will were not parties to such assignment nor has the vendor any evidence of an assent by such executors. No objection whatever shall be made on the ground that no such assent was or may not have been given.]

5. [*Clause as to production of receipt as in Form* 221, *clause* 5, p. 403, *supra*] [*or if the rent is merely a nominal rent* The fact of the vendor's possession of the property shall be conclusive evidence of the due performance up to the date of completion of all the lessee's covenants or waiver of any breach thereof.]

(*k*) As to the purchaser's right to inquire into the title of a surrendered lease see *Hodgkinson* v. *Cooper* (1846), 6 Beav. 304.

6. The property is sold subject to the existing underleases and tenancy agreements and all claims of tenants and all easements and rights in the nature of easements affecting the property. Counterparts of all such underleases and particulars of such of the said tenancy agreements have been furnished to the purchaser who has full notice of the terms thereof.

7–10. [*Clauses as to requisitions, identity, misdescription and vendor's power of rescission as in Form* 193, *clauses* 5, 8, 9 *and* 10, pp. 353 *et seq., supra.*]

11. [*Clause as to completion as in Form* 221, *clause* 10, p. 403, *supra, omitting from clause* 10, *words in square brackets* (*l*).]

12–15. [*Clauses as to interest, possession, trust of policy of insurance and forfeiture of deposit as in Form* 193, *clauses* 13, 14, 15, *and* 16, pp. 357 *et seq., supra.*]

16. This sale is subject to the consent of the lessor to the assignment of the property which the vendor will use his best endeavours to obtain. Should such consent be refused this contract shall become void and the purchaser shall receive back his deposit in full satisfaction of all claims for interest compensation damages or otherwise [*or if the lease merely prohibits assignments without licence,* Should such consent be refused the vendor will grant the purchaser an underlease (*m*) of the property for the unexpired residue of the said term less the last day thereof and declare trusts of such day for the benefit of the purchaser] [*or if assignments and underleases are prohibited but the covenant in the lease does not prohibit parting with possession of the premises* Should such consent be refused the vendor will declare a trust of the property in favour of the purchaser he being duly indemnified by the purchaser against all liability under the said lease [*or* underlease]] (*n*).

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

223.

AGREEMENT for Sale of an Underlease by Trustees of a Deceased Mortgagee (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*trustees*] of &c. (hereinafter called the vendors) of the one part, and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

(*l*) In addition to the statutory covenants for title, there will be implied by the Law of Property Act, 1925, s. 77 (1) (*c*), a covenant by the *assignee* in the terms of Part IX of the 2nd Schedule to that Act.

(*m*) But in that case the statutory covenants for title will not be implied: see *ibid.* s. 76 (5).

(*n*) A declaration of trust is not an assignment (*Gentle* v. *Faulkner,* [1900] 2 Q. B. 267).

(*o*) Stamp 6*d*. This precedent affords an example of an agreement containing recitals of the vendor's title. Such recitals are not usually necessary, but where the title is complicated and special provisions are introduced relating to such title, such recitals sometimes conduce to clearness and brevity.

WHEREAS by a lease dated the —— day of ——, and made between [*lessor*] of the one part and [*lessee*] of the other part the messuage and land hereby agreed to be sold were demised unto the said [*lessee*] for a term of —— years from the —— day of —— at the yearly rent of £—— and subject to the covenants and conditions therein contained.

AND WHEREAS by a mortgage dated the —— day of —— and made between the said [*lessee*] of the one part and [*mortgagee*] of the other part in consideration of the sum of £—— the said messuage and land were conveyed by way of mortgage to the said [*mortgagee*] for the residue of the said term except the last day thereof (*p*) for securing the sum of £—— with interest theron at the rate of [five] pounds per cent. per annum and by such mortgage the said [*lessee*] declared that he would hold the last day of the said term of —— years upon trust for the said [*mortgagee*] his executors administrators and assigns but subject to redemption [and thereby irrevocably appointed the said [*mortgagee*] his executors administrators and assigns his attorneys on his behalf to assign the said last day as the said [*mortgagee*] should think fit]. [And in such mortgage was contained a power of sale by the said [*mortgagee*] his executors administrators and assigns and usual provisions ancillary thereto].

AND WHEREAS the said [*mortgagee*] died on the —— day of —— having by his last will dated the —— day of —— appointed [*executor*] thereof who on the —— day of —— duly proved the same in the Principal Probate Registry

AND WHEREAS by an order of the Chancery Division of the High Court of Justice made on the —— day of ——, 19— in an action the short title whereof is *Re X., A.* v. *B.*, 1925, *X.* No. —— (being an action for the administration of the personal estate of the said [*mortgagee*]) certain terms of compromise were approved and ordered to be carried into effect, and by the same order the vendors were appointed trustees of the said will. And it was ordered that the said [*executor*] should transfer the mortgage hereinbefore recited so as to vest the same in the vendors upon the trusts by the said will declared of the testator's residuary estate

AND WHEREAS by a deed of transfer dated the —— day of —— and made between the said [*executor*] of the one part and the vendors of the other part the said sum of £—— owing on the security of the said mortgage and the messuage and land comprised therein were (together with other property) in pursuance of the said order transferred to the vendors.

NOW IT IS HEREBY AGREED as follows :—

1. The vendors will sell and the purchaser will purchase at the price of £—— ALL THAT piece of land situate on the —— side of —— Road in the parish of —— in the county of —— containing on the —— and —— sides thereof —— feet or thereabouts and on the —— and —— sides

(*p*) By the Law of Property Act, 1925 (15 Geo. 5, c. 20), Sch. I, Part II, para. 3, the nominal reversion will vest in a purchaser from mortgagees prior to 1926 unless the same is disclaimed in writing under para. 7 (*m*), added by the Law of Property Amendment Act, 1926 (16 & 17 Geo. 5, c. 11), s. 7 Sch. See the Encyclopædia of Forms, 2nd Edn. vol. 19, p. 402.

thereof —— feet or thereabouts Together with the messuage and other buildings erected thereon fronting on the said —— Road and known as No. —, —— Road for the residue now unexpired of the sub-term created by the said mortgage subject to the said yearly rent of £—— reserved by the said lease and to the covenants and conditions therein contained (*q*).

2. The price shall be paid by the purchaser to the vendors in manner following; that is to say £—— part thereof immediately on the execution of these presents and £—— the remainder thereof on the —— day of —— at the office of the solicitors of the vendor Messrs. —— of No. —, —— Street, London.

3. The title shall commence with the said lease of the —— day of —— and the purchaser shall not require the production of or investigate or make any objections or requisitions in respect of the prior title but he shall assume that the said lease vested in the said [*lessee*] a good title to the premises therein comprised for the term therein mentioned and he shall not require any other evidence of the covenants and conditions contained in such lease having been performed and observed or that all breaches (if any) of such covenants and conditions have been waived up to the completion of the purchase than the production of the receipt for the last payment of rent which shall have become due under the said lease.

4. With regard to the proceedings in the action in which the said order of the —— day of —— was made the purchaser will be furnished at his own expense with an abstract of such order and may inspect an office copy thereof, but he shall not be entitled to require any further evidence or information as to the said action or any of the proceedings thereon or to make any requisition with respect thereto. The said order shall be deemed to be valid and binding in all respects upon all persons interested beneficially or otherwise in the property.

5. The purchaser shall send his objections to and requisitions (if any) in respect of the title to the office aforesaid within —— days from the delivery of the abstract, and in this respect time shall be of the essence of the contract, and in default of such objections and requisitions (if none) and subject only to such (if any) shall be deemed to have accepted the title, and if he shall insist on any objection or requisition which the vendors shall be unable or unwilling to remove or comply with the vendors may by notice in writing to be given to the purchaser or his solicitor at any time and notwithstanding any negotiation or litigation in respect of such objection or requisition annul the sale and shall thereupon return to the purchaser the said sum of £—— but without any interest costs or compensation whatsoever.

6. The purchaser shall notwithstanding any variation in names quantities or otherwise admit the identity of the property with that comprised in the said lease and shall require no further evidence than is afforded by a comparison of the descriptions in these presents and in the abstracted

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(*q*) In a contract for the sale of a mortgage term, where the vendors have power to convey the leasehold reversion; the contract is deemed to extend to such reversion (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 42 (4)). As to the realisation of leasehold mortgages see *ibid.* s. 89.

documents respectively and a statutory declaration to be made and obtained if required at the expense of the purchaser that the property has been held consistently with the title shown during the last twenty years.

7. Upon payment by the purchaser of the remainder of the purchase-money the vendors and all other necessary parties (if any) will execute a proper assurance of the premises to the purchaser or as he shall direct such assurance to be prepared and perfected (save as to the execution thereof by the vendors) and at the expense of the purchaser, and to be left by him not later than —— days before the —— day of —— at the office aforesaid for execution by the vendors.

8. The vendors shall not be required to enter into any other covenant than the statutory implied covenant that they have done no act to incumber nor shall the concurrence of any of the persons beneficially interested in the premises or the mortgage security or the right of redemption thereof be required.

9. Upon payment of the remainder of the purchase-money the purchaser shall be entitled to the possession of the property or the receipt of the rents and profits thereof as from the —— day of —— down to which time all outgoings in respect thereof shall be paid by the vendors and for the purposes of this condition such rents and profits and outgoings if the circumstances so require shall be apportioned. If from any cause whatever except the vendors' wilful default the purchase shall not be completed on the said —— day of —— the purchaser shall pay interest on the remainder of his purchase-money at the rate of £—— per cent. per annum from that day until the completion of the purchase.

10. The property is believed and shall be taken to be correctly described as to quantity and otherwise and is sold subject to all rights and easements (if any) subsisting thereon and if any error or misstatement shall be discovered in the description hereinbefore contained the same shall not annul the same nor shall compensation be allowed either to the vendor or purchaser in respect thereof (*r*).

11. The vendors shall retain such of the abstracted muniments of title as relate to other property not included in the sale and shall enter into the usual statutory acknowledgment for the production thereof but the vendors shall not be required to enter into an undertaking for the safe custody thereof so as to render them or their representatives personally liable except in respect of their acts while they hold the documents.

12. If the purchaser shall fail to comply with the above conditions the sum of £—— shall be forfeited to the vendors who may thereupon resell the property in such manner as they shall think fit and any deficiency in price which may happen on and all expenses attending such resale shall be made good by the purchaser and shall be recoverable by the vendors as and for liquidated damages.

IN WITNESS, &c.

[*Signatures of vendors and purchaser.*]

(*r*) This is a preferable form for trustees, as it has been suggested that they cannot allow compensation to the prejudice of their *cestui que trust* (*White* v. *Cuddon* (1842), 8 Cl. & Fin. 767).

224.

AGREEMENT for Sale of Leasehold Houses by Three several Owners for Prices to be ascertained by reference to Government Annuities (*s*).

AN AGREEMENT made this —— day of —— BETWEEN [*owner of first house*] of &c. spinster of the first part [*owner of second house*] of &c. widow of the second part [*owner of third house*] of &c. spinster of the third part and [*purchaser*] of &c. (hereinafter called the purchaser) of the fourth part.

WHEREBY IT IS AGREED as follows :—

1. As regards each of the properties specified in the second column of the Schedule hereto the respective vendors whose names are in the first column of such Schedule set opposite such property will sell and the purchaser will purchase such property for the price and upon the terms hereinafter mentioned.

2. The respective properties are held under the leases specified in the third column of the said Schedule at the several rents set forth in the fourth column thereof for the several terms of years specified in the fifth column thereof and subject to the covenants by the lessees and conditions reserved by and contained in the said leases respectively. Each property is sold for such term at such rent and subject to such covenants and conditions as aforesaid and is also sold subject to but with the full benefit of the respective underleases thereof set opposite such properties in the sixth column of the said Schedule. The said leases and underleases have been produced to the purchaser who shall be deemed to purchase with full notice of the contents thereof.

3. The price for each property (including the landlord's fixtures thereon) shall be a sum equal to the price (inclusive of commission) payable to the Commissioners for the reduction of the National Debt on the day fixed for completion of the purchase of a Government annuity equal in amount to the annual profit rent now arising from such property as set forth in the seventh column of the same Schedule each such annuity being an annuity for a term of years corresponding with the unexpired leasehold term for which such property is held.

4. In the case of each property the following further conditions shall apply namely :—

(*a*) The title shall commence with the lease under which the said property is held.

(*b*) [*Clause as to requisitions as in Form* 193, *clause* 5, p. 353, *supra.*]

(*c*) [*Clause as to vendor's power to rescind as in Form* 193, *clause* 10, p. 355, *supra, adding at end,* the exercise of this power by any vendor in respect of any particular property shall not annul this

(*s*) Stamp 6*d*. A sale in this form is intended to place the vendors in the same financial position after the sale as they previously had, government annuities being substituted as the source of their income for the rents of the leaseholds.

contract as regards any other property except that in respect whereof such power is exercised *and omitting all references to a deposit.*]

(*d*) [*Clauses as to assignment interest, and possession as in Form* 221, *clause* 10, p. 403, *supra, omitting words in square brackets, and Form* 193, *clauses* 13 *and* 14, p. 357, *supra.*]

(*e*) [*Clause as to production of last receipt for rent as in Form* 221, *clause* 5, p. 403, *supra.*]

(*f*) Each vendor will at her own cost forthwith endeavour to obtain the consent of her lessor to the assignment mentioned in paragraph (*d*) of this clause but should such consent not be forthcoming before the day fixed for completion the purchaser may as regards such property but not otherwise rescind the contract but shall not be entitled to any compensation or costs whatsoever.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

Vendor's Name. 1.	Premises sold. 2.	Lease date and Parties. 3.	Ground Rent. 4.	Term of years. 5.	Particulars of under lease. 6.	Profit Rental after deducting Ground Rent. 7.

[*Signatures of vendors and purchaser.*]

225.

AGREEMENT for Sale of Leaseholds Registered with Possessory Title (*t*).

AN AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will buy ALL THOSE [*parcels*] now held by the vendor [together with other hereditaments] under a lease thereof dated the —— day of —— and made between [*parties*] for the

(*t*) Stamp 6*d*. Registration under the Land Registration Act, 1925 (15 Geo. 5, c. 21), is compulsory on sale in the areas affected by that Act only in the case of leases or underleases having at least forty years to run (*ibid.* s. 123). The exceptions to this rule are leaseholds subject to an absolute prohibition against alienation (*ibid.* s. 8 (2)), leasehold terms where there is a subsisting right of redemption created for mortgage purposes (*ibid.* s. 8 (1)), and equitable estates in leaseholds (*ibid.* s. 2). See generally Encyclopædia of Forms and Precedents, 2nd Edn. vol. 13, pp. 126 *et seq.*

residue of a term of —— years from the —— day of —— at a yearly rent of £—— and subject to the covenants and conditions in the said lease contained. The vendor is registered as proprietor of the said leasehold premises with a possessory title under Title No. —— District —— Parish ——.

2, 3. [*Clauses as to price and fixtures as in Form* 193, *clauses* 2 *and* 3, p. 351, *supra.*]

4. The title to the property shall commence with the said lease. Since the —— day of —— being the date of first registration the abstract shall consist of a copy of the registered entries relating to the property. The first registered proprietor on the occasion of his registration filed a statement that there were no estates rights and interests then subsisting or capable of arising adverse to or in derogation of his title and the purchaser shall accept such statement as conclusive evidence of the matters therein stated. The purchaser shall be deemed to purchase with full notice of the contents of the said lease which has been produced to and examined by him.

5. [*Clause as to requisitions as in Form* 193, *clause* 5, p. 353, *supra.*]

5A & 6. [*Clause as to identity if required as in Form* 223, *clause* 6, p. 408, *supra, and clause as to production of receipt for last payment of rent as in Form* 221, *clause* 5, p. 403, *supra.*]

7 & 8. [*Clauses as to misdescription and vendor's power to rescind as in Form* 193, *clauses* 9 and 10, pp. 354, 355, *supra.*]

9. [*Clause as to completion as in Form* 215, *clause* 9, p. 392, *supra.*]

10. [*Clause as to interest as in Form* 193, *clause* 13, p. 357, *supra.*]

10A. [*Clause as to consents and priority notice as in Form* 215, *clause* 10A, p. 393, *supra, adding at the end if necessary* The vendor will use his best endeavours forthwith to obtain the consent of the lessor to the transfer of the said leasehold premises to the purchaser and if such consent cannot be obtained this agreement shall be rescinded and the deposit shall be repaid to the purchaser who shall accept the same in full satisfaction of all claims whatsoever against the vendor [*If the covenant in the lease merely forbids assignment add* But the purchaser may elect to have an underlease of the premises for the said term of years less the last day thereof with a declaration of trust of the nominal reversion] [*or if assigning and sub-leasing are forbidden but the covenant does not extend to parting with possession, add* But the vendor will at the expense of the purchaser and if the purchaser so elect declare trusts of the said premises in favour of the purchaser].]

11–13. [*Clauses as to possession, trust of insurance moneys and forfeiture as in Form* 193, *clauses* 14–16, p. 357, *supra.*]

14. The purchaser is hereby authorised to inspect the registered entries relating to the said title.

IN WITNESS, &c.

[*Signatures of both parties.*]

(*a*) As to the covenants implied on transfers of registered leaseholds, see Land Registration Act, 1925 (15 Geo. 5, c. 21), s. 24.

226.

AGREEMENT for Sale of a Mill House, Bakehouse and Business (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell and the purchaser will purchase the fee simple in possession free from incumbrances of and in ALL THAT mill with the stable outbuildings and yard thereunto belonging and used therewith situate at &c. and now in the possession of the vendor AND ALSO ALL THAT dwelling-house with the bakehouse outhouses yard garden and orchard belonging thereto and to the said mill which is now [and for many years past has been] also in the possession and use of the vendor TOGETHER with all rights easements and appurtenances whatsoever thereto respectively belonging and all the movable and running gear tackle dressing and other machines and appliances and loose plant now used therein and comprised in the [First] Schedule hereto and all the fixtures and fittings whatsoever in the said mill dwelling-house bakehouse storehouses and buildings [*If the stock-in-trade &c. are to be taken at a valuation here add* And also ALL THE stock-in-trade [consisting of corn flour and meal] implements utensils horses waggons carts trucks and other articles and things specified in the Second Schedule hereto] AND ALSO the goodwill of him the vendor of and in the mealing and baking business now carried on by the vendor on the said premises.

2. The price for the purchase shall be £—— of which £—— shall be deemed to be the value of the movable gear and loose plant hereby agreed to be sold and £—— the value of the said goodwill.

3. The vendor's title to the said freehold premises shall commence with a conveyance on sale dated the —— day of —— and made between [*parties*] [*or as the case may be, see Form* 193, *clause* 4, p. 352, *supra*], and the prior title shall not be investigated or objected to on any ground whatsoever.

4–7. [*Clauses as to requisitions, easements, identity and misdescriptions as in Form* 193, *clauses* 5, 7, 8 *and* 9, pp. 353 *et seq., supra.*]

8. The purchase shall be completed at the offices of Messrs. —— the vendor's solicitors at —— on the —— day of —— next [between the hours of —— and —— in the forenoon] at which time and place the purchaser shall pay the said purchase-money and on payment thereof the vendor will execute a proper assurance of the property sold to the purchaser such assurance [and a duplicate thereof (*c*)] being prepared and perfected by and at the expense of the purchaser and the vendor will thereupon deliver up possession of the said premises to the purchaser.

(*b*) Stamp. 6*d.* and *ad valorem* conveyance duty on the price for the goodwill.
(*c*) Omit these words, if clause 8A is not inserted.

All rates, taxes, and other outgoings payable for or in respect of the said premises up to that time shall be defrayed by the vendor.

[8A. The said assurance and duplicate shall contain a covenant by the vendor with the purchaser that the vendor will not for a period of —— years from the date thereof, either alone or jointly, or as director or agent for any person or corporation, either directly or indirectly carry on, manage or be concerned or interested in, or enter the employment of any person or corporation concerned or interested in the business of mealing and baking within —— miles of —— aforesaid.]

9. If from any cause whatever the purchase shall not be completed on the —— day of —— the purchaser shall pay interest at the rate of £—— per cent. per annum on the unpaid purchase-money from that day until payment thereof.

10. All book and other debts owing to the vendor in connection with the said business on the date fixed for completion shall remain the property of the vendor but the purchaser shall use his best endeavours to collect and get in the same for the benefit of the vendor, if the vendor requests him so to do and in such event the purchaser shall be entitled to retain from the amount so collected by him a commission of £4 per cent. on the said amount.

11. All uncompleted contracts of the said business on the date fixed for completion of the purchase shall be completed by the purchaser and the net profits thereof shall be apportioned between the vendor and purchaser in case of disagreement by two valuers one to be appointed by each party or any umpire appointed by the valuers before they enter on their valuation and such valuation shall be deemed to be an arbitration within the meaning of the Arbitration Act, 1889, and shall be conducted according to the provisions of such Act.

12. If the sale shall not be completed on the —— day of —— next the vendor shall carry on the said business at the sole risk of the purchaser and as his agent and shall be entitled to be fully indemnified by the purchaser against all liabilities incurred by him in so carrying on the same. The vendor shall not be liable for any depreciation in value of the premises sold or any falling off of trade occurring after the date of these presents (*d*).

13. The books of account of the said business shall on completion of the purchase belong to the purchaser, but until the debts outstanding on the —— day of —— have been collected and the contracts uncompleted on that date have been completed the vendor shall at all times have full access thereto and full power to make copies and extracts therefrom.

14. If the purchaser should fail to observe and perform the stipulations on his part herein contained, the vendor may by notice in writing rescind this agreement and if he think fit resell the property subject to such stipulations as he approves, and shall be entitled to recover on demand from the purchaser as liquidated damages any deficiency in price and all expenses which may result from any resale or attempted resale.

AS WITNESS, &c.

(*d*) See *Golden Bread Co., Ltd.* v. *Hemmings*, [1922] 1 Ch. 162.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Inventory of movable appliances and loose plant.*]

[THE SECOND SCHEDULE ABOVE REFERRED TO.]

[*Stock-in-trade.*]

[*Signatures of both parties.*]

227.

AGREEMENT for letting Purchaser into Possession before Completion (*e*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREAS this agreement is SUPPLEMENTAL to an agreement dated the —— day of —— and made between the vendor and the purchaser being an agreement for the sale to the purchaser of [*parcels by a short description*] and providing for the completion of the said sale on the —— day of —— next

AND WHEREAS the purchaser has [not yet] accepted the title to the said premises and [*or* but] has requested the vendor to allow him to take possession of the said premises [*or if possession is to be taken of part only specify the part*] pending completion of the said sale [and to make alterations and additions thereto].

NOW IT IS HEREBY AGREED as follows :—

1. The vendor will on or before the —— day of —— next deliver to the purchaser complete possession of the said premises [*or* such part of the said premises as aforesaid].

2. The purchaser shall retain possession of the said premises [*or* such part of the said premises] in accordance with the terms of these presents, and shall not part with possession of the same or any part thereof without the consent in writing of the vendor. During the continuance of such possession the purchaser shall duly pay and discharge all outgoings in respect of the said premises [*or if possession of part only is given* one [sixth] of all outgoings in respect of the premises agreed to be sold] and shall indemnify the vendor therefrom.

3. The stipulation in the said agreement of sale for payment of interest on the purchase-money shall in the event of the purchaser taking possession of the said premises take effect as from the date of such taking of possession [*or if possession of part only is given* as from the date of taking such possession the purchaser shall pay the vendor on the date of completion interest at the rate of £[5] per cent. per annum on one [sixth] of the purchase-money].

(*e*) Stamp 6*d*.

4. The purchaser shall be at liberty to make alterations and additions to the said premises [*or* part of the said premises] provided that plans and specifications of such alterations and additions shall have been first submitted to the vendor and approved by him. All such alterations and additions shall be carried out in a good and workmanlike manner to the approval of the vendor.

5. [The purchaser shall not be deemed to have accepted the vendor's title to the premises agreed to be sold by reason of his taking possession hereunder or making such alterations or additions as aforesaid.] (*f*). In the event of the said agreement for sale being duly determined by either party in pursuance of any power therein contained or otherwise or in the event of the purchaser committing a breach of any stipulation herein contained, the purchaser will on demand deliver peaceful possession of the said premises to the vendor and shall not be entitled to any compensation in respect of the value of the said alterations and additions, but he shall not be required to restore the said premises or any part thereof to their original condition [*or*, but in such event the vendor shall pay to the purchaser the fair value of the said alterations and additions to be ascertained in case of disagreement by the arbitration of two surveyors or their umpire to be chosen before entering upon such arbitration and such arbitration to be conducted in all respects according to the provisions of the Arbitration Act, 1889].

6. Save as herein expressly provided, this agreement shall not prejudice or affect the rights or liabilities of the vendor or the purchaser under the said agreement of sale.

IN WITNESS, &c.

[*Signatures of vendor and purchaser.*]

228.

AGREEMENT for Retaining Part of Purchase-money until a Defect in the Title is removed (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form No.* 193, p. 351, *supra.*]

WHEREAS by an agreement dated the —— day of —— and made between the parties hereto the vendor agreed to sell and the purchaser agreed to buy at the price of £—— the unincumbered fee simple in possession of [*parcels*], such sale to be completed on the —— day of —— next

AND WHEREAS in the course of investigating the title to the said premises it has been discovered that, on the —— day of —— 19—, part of the premises, called —— Close, was mortgaged to [*mortgagee*] of &c. but although the title-deeds relating thereto, including the said mortgage, are now in the possession of the vendor, it cannot, for the present, be ascertained whether any reconveyance of the said close of land was ever executed

(*f*) See the Encyclopædia of Forms, 2nd Edn. vol. 14, p. 162.
(*g*) Stamp 6*d*.

[*Or*, AND WHEREAS in the course of investigating the title to the said premises it has been discovered that the legal estate in part of same being certain parcels of land coloured [red] on the plan hereto annexed is outstanding in [*name*] who is at present temporarily resident abroad [*or* whose whereabouts are at present unknown to the parties hereto]] (*h*)

AND WHEREAS the purchaser is willing to complete the said purchase on being allowed to retain the sum of £—— out of the said purchase-money until such defect of title shall have been removed.

NOW IT IS HEREBY AGREED as follows:—

1. The purchaser shall be entitled on completion to retain £—— out of the said purchase-money until such time as the vendor shall at his own expense have procured the execution of a valid reconveyance by the said [*mortgagee*] or persons claiming under him of —— Close aforesaid [*or* a valid conveyance of the said outstanding legal estate by the person or persons in whom the same is now vested] to the purchaser and the vendor shall use his best endeavours to procure the execution of such reconveyance [*or* conveyance] as aforesaid having first duly proved at his own expense to the satisfaction of the purchaser the title of the said [*mortgagee*] [*or* person or persons aforesaid] to execute the same.

2. The purchaser shall pay the vendor the sum so retained together with interest after the rate of £—— per cent. per annum on the same if and when such reconveyance [*or* conveyance] shall have been obtained.

3. In the event of the vendor being unable or neglecting to procure the said reconveyance [*or* conveyance] within —— calendar months from the date hereof the said sum of £—— so retained as aforesaid shall belong to the purchaser by way of compensation and liquidated damages in respect of the said defect of title and he shall be absolutely discharged therefrom and the vendor shall be discharged from all obligation to procure such reconveyance [*or* conveyance] as aforesaid.

4. Save as aforesaid the said agreement of sale shall have full force and effect.

IN WITNESS, &c.

[*Signatures of both parties.*]

229.

AGREEMENT to procure Statutory Acknowledgment as to Title-Deeds (*i*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 193, p. 351, *supra*].

WHEREAS the vendor being seised in fee simple in possession free from incumbrances of an estate known as the —— estate, lately offered the

(*h*) As to outstanding legal estates prior to 1926, see the Law of Property Act, 1925 (15 Geo. 5, c. 20), Sch. I, Part II, and as to the discharge of mortgages see *ibid.*, ss. 115, 116.

(*i*) Stamp 6*d*.

same for sale in —— lots and has since sold and conveyed the greater portion of such lots namely —— lots numbered respectively —— to —— unto the said [*purchaser*] but the conveyances thereof do not contain an acknowledgment of the purchaser's right to production of the title-deeds relating thereto or any undertaking for the safe custody thereof.

NOW THESE PRESENTS WITNESS that in consideration of the purchase-moneys already paid by the purchaser for the several lots so purchased by him as aforesaid, and for the purpose of completing the title of the purchaser thereto the vendor hereby agrees with the purchaser that he will when and as soon as the last of the said lots shall have been sold, at the request and expense in all things of the purchaser, cause the person and persons to whom the title-deeds documents and writings relating to the said estate set out in the Schedule hereto shall be delivered to give to the said purchaser a statutory acknowledgment of the right of the purchaser to production and delivery of copies of such deeds documents and writings with an undertaking for safe custody and in the meantime the vendor acknowledges the purchaser's said right and undertakes for the safe custody of such deeds documents and writings.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Documents.*]

[*Signature of vendor.*]

230.

AGREEMENT to Indemnify an Auctioneer on Payment of Purchaser's Deposit to Vendor (*k*).

THIS AGREEMENT is made the —— day of —— BETWEEN, &c. [*vendor*] of &c. of the one part and [*auctioneer*] of &c. of the other part.

WHEREAS the said [*auctioneer*] on the —— day of —— last was employed by the said [*vendor*] to sell by auction an estate called the —— estate belonging to the said [*vendor*] situate at —— in the county of —— at the sum of £—— [*Or* several freehold properties situate at —— belonging to the said [*vendor*] and described in the conditions of such sale as lots 1, 2, 5, 8 [*or as the case may be*] at the aggregate sum of £——] and the purchaser[s] thereof thereupon paid to him as such auctioneer the sum of —— by way of deposit, according to the conditions of such sale

AND WHEREAS the said [*vendor*] has requested the said [*auctioneer*] to pay over [the sum of £——, part of] the said deposit-money to him which he has agreed to do on having the indemnity hereinafter contained.

(*k*) Stamp 6*d*. An auctioneer, in the absence of express stipulation, receives a deposit as stakeholder (*Edgell* v. *Day* (1865), L. R. 1 C. P. 80), and should not pay the deposit to either party without the other's consent (*Harington* v. *Hoggart* (1830), 1 B. & Ad. 577; *Collins* v. *Stimson* (1883), 11 Q. B. D. 142, 144); and see generally Halsbury's Laws of England, title "Auction and Auctioneers," vol. 1, p. 512, and the Encyclopædia of Forms, 2nd Edn. vol. 14, p. 279).

NOW THESE PRESENTS WITNESS as follows :—

1. In consideration of £—— (being [part of] the amount of the said deposit-money) now paid by the said [*auctioneer*] to the said [*vendor*] the receipt whereof the said [*vendor*] hereby acknowledges the said [*vendor*] hereby agrees with the said [*auctioneer*] that in the event of the said purchase [*or* several purchases or any of them] not being completed and of the repayment of the said deposit [*or* deposits or any of them] being required by the purchaser [*or* purchasers or any of them] and also in the event of the said [*auctioneer*] being otherwise required or called upon to repay the same the said [*vendor*] will on being requested in writing so to do repay the same either to him or to such person or persons as he shall direct [*Or* will either repay or permit the said [*auctioneer*] to retain (which he is hereby authorised to do) that sum out of such part of the said deposit-moneys as shall then remain in his hands in or towards satisfaction of the sum now paid to the vendor And also that in case no portion or only a portion of the said deposit-moneys shall after such repayment as aforesaid remain in his hands he the said [*vendor*] will forthwith after such request as aforesaid repay to the said [*auctioneer*] the amount or deficiency thereof].

2. In default of payment as aforesaid the said [*vendor*] will at his own expense when thereunto required execute such security on his other unsold property, by way of mortgage or indemnity to the said [*auctioneer*] for the purpose of securing to him the said sum of £——, so paid as aforesaid, together with interest thereon after the rate of £—— per cent. per annum as he shall reasonably require.

IN WITNESS, &c.

[*Signature of vendor.*]

SEPARATION AGREEMENTS.

231.

AGREEMENT between Husband and Wife where there are no Children of the Marriage (*l*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*husband*] of &c. of the one part and [*wife*] of &c. the wife of the said [*husband*] of the other part.

(*l*) Stamp. Bond covenant duty at the rate of 2*s.* 6*d.* for every £5 of the allowance (*Lewis* v. *Commissioners of Inland Revenue*, [1898] 2 Q. B. 290). Before 1883 it was necessary that a trustee should be made a party in order that the covenants of the husband and wife should be effectual. Since the 1st of January, 1883, a trustee is not a necessary party (see Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), sects. 1, 12, 13; *McGregor* v. *McGregor* (1888), 21 Q. B. D. 424). But the interposition of a trustee is often convenient in order to avoid the necessity for direct communication between the husband and wife. An arrangement for an immediate separation is good (*Hunt* v. *Hunt* (1862), 4 D. F. & J. 221); but an arrangement for a future separation is void (*Westmeath* (*Marquess*) v. *Salisbury* (*Marquess*) (1830), 5 Bli. (N. S.) 339; *Cartwright* v. *Cartwright* (1853), 3 De G. M. & G. 982; *Brodie* v. *Brodie*, [1917] P. 271); and see generally as to what separation deeds are void as being against

WHEREAS the said [*husband*] and [*wife*] intermarried in the year —— and there has been no issue of their said marriage

AND WHEREAS unhappy differences have arisen between them by reason whereof they are unable to live harmoniously together and they are desirous of separating the one from the other upon the terms hereinafter expressed.

NOW IT IS HEREBY AGREED as follows :—

1. The parties hereto shall henceforth live separate and apart the one from the other and neither of them shall during the continuance of this agreement at any time or in any manner directly or indirectly molest disturb or interfere with the other of them or any person or persons with whom he or she may be residing for the time being.

2. The said [*husband*] will during the continuance of this agreement pay to the said [*wife*] by equal quarterly payments of £—— each an annual allowance of £—— for her maintenance and support the first such payment to be made on the —— day of —— (*m*). PROVIDED ALWAYS that if the said [*wife*] shall at any time commit any breach of any stipulation on her part herein contained [or shall be guilty of scandalous or unchaste conduct (*n*) or wilfully reside or consort with persons of bad reputation] all liability of the said [*husband*] under this clause shall immediately cease and determine.

3. The said [*husband*] shall forthwith pay and discharge all debts and liabilities specified in the First Schedule hereto all of which have been incurred by the said [*wife*] and shall keep the said [*wife*] at all times indemnified against all claims and demands in respect thereof.

4. The said [*wife*] shall be entitled to take and keep as her separate and absolute property all her wearing apparel, jewellery, trinkets and personal ornaments and also all such household goods utensils furniture and effects as are set forth in the Second Schedule hereto.

5. The said [*wife*] shall not reside within —— miles of the town of —— so long as the said [*husband*] resides in such town or visit the same without his written consent [except for some urgent and imperative cause].

6. The said [*wife*] shall not carry on or be engaged directly or indirectly in the business of a [draper] within [50] miles of the said town of —— or solicit the customers of the business now carried on by the said [*husband*] in such town or in any way interfere or compete with or endeavour to interfere or compete with the said business.

7. The said [*wife*] shall not at any time during the continuance of this agreement contract or purport to contract any debt as agent for the

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public policy (*Marlborough* (*Duchess*) v. *Marlborough* (*Duke*), [1901] 1 Ch. 165, 172; *Re Hope Johnstone* v. *Hope Johnstone*, [1904] 1 Ch. 470); *Wilson* v. *Carnley*, [1908] 1 K. B. 729, 743; *Re Meyrick's Settlement*, *Meyrick* v. *Meyrick*, [1921] 1 Ch. 311, 319.

(*m*) As to deduction of income tax see *Booth* v. *Booth*, [1922] 1 K. B. 66.

(*n*) As to the necessity of the insertion of an express provision for cesser of the annuity on subsequent unchastity see *Wasteneys* v. *Wasteneys*, [1900] A. C. 446.

said [*husband*] or under such circumstances as to expose the said [*husband*] to any liability for such debts. Should the said [*wife*] contract any debt in breach of this clause which the said [*husband*] shall be called upon to pay and actually shall pay he may retain the amount so paid and all expenses incurred by him in respect of such debt and payment out of the allowance which by clause 2 hereof he is liable to pay.

8. In the event of the said [*husband*] and [*wife*] cohabiting as man and wife at any time hereafter this agreement shall become void as from the date of such cohabitation except as regards any liability which has actually arisen hereunder prior to such cohabitation (*o*).

IN WITNESS, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*Particulars of wife's existing debts.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*Particulars of household effects.*]

[*Signatures and seals of both parties.*]

232.

AGREEMENT between Husband, Wife and Trustees where there are Children of the Marriage and the Wife has Separate Estate (*p*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*husband*] of &c. (hereinafter called the husband) of the first part [*wife*] of &c. (the wife of the husband) of the second part and [*trustees*] of &c. (hereinafter called the trustees) of the third part.

WHEREAS the husband and wife intermarried in the year —— and there has been issue of such marriage three children namely one son [*name*] who is now aged ——— years or thereabouts and two daughters [*names*] who are now of the respective ages of —— years and —— years or thereabouts

[*Recital of differences as in Form* 231, p. 420, *supra substituting* the husband and the wife *for* them]

AND WHEREAS the trustees have at the request of the husband and the wife agreed to act as trustees for the purposes of these presents.

NOW THESE PRESENTS WITNESS that for the considerations hereinafter appearing the husband as regards the stipulations to be performed by him hereby covenants with the wife and as a separate covenant with the trustees and the wife as regards the stipulations to be performed

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(*o*) See *Rowell* v. *Rowell* (1900), 1 Q. B. 9; *Nicol* v. *Nicol* (1886), 31 Ch. D. 524. If no separation in fact takes place the deed is wholly void (*Bindley* v. *Mulloney* (1869), L. R. 7 Eq. 343).

(*p*) Stamp. See p. 419, note (*l*), *supra*.

by her hereby covenants with the husband and as a separate covenant with the trustees and the trustees as regards the stipulations to be performed by them or by the wife hereby respectively covenant with the husband as follows :—

1. The husband and the wife shall henceforth live separate and apart the one from the other and may reside at such place or places as they respectively think fit [and be engaged in such business or occupation as they respectively desire].

2. During the continuance of this agreement neither the husband nor the wife shall molest annoy or interfere with in any manner whatsoever the other of them or any persons with whom he or she shall for the time being be residing.

3. Neither the husband nor the wife shall take any legal proceedings against the other of them for restitution of conjugal rights or for divorce or judicial separation in respect of any alleged misconduct or offences prior to the date hereof (*q*) [all which misconduct and offences are hereby condoned (*r*)].

4. The husband shall have the sole custody of the said [*son of the marriage*] and the wife shall have the sole custody of the said [*daughters of the marriage*] [*or* the husband [*or* the wife] shall have the sole custody of the children of the said marriage] [PROVIDED ALWAYS that the trustees may if in their opinion such a course is imperative in the interests of any child of the marriage remove such child from the custody of the husband or the wife as the case may be and entrust such custody to the other of them the husband or the wife or to any other person or persons whatsoever].

5. The trustees shall from time to time give directions as to the access of the husband and the wife to the said children. Subject to such directions the said daughters shall spend [14] consecutive days in every year at such time as the wife shall select with the husband and the said son shall spend [14] consecutive days at such time as the husband shall select with the wife, the husband or wife as the case may be undertaking that during the visits of any child of the marriage to him or her such child shall not be exposed to unsuitable surroundings or the society of immoral or undesirable persons.

6. The husband will pay in respect of each daughter to the trustees an annual sum of £—— by half-yearly payments on the —— day of —— and the —— day of —— the first such payment to be made on the ——

(*q*) A covenant in this form precludes a party from suing in respect of such previous misconduct, but not from pleading it in answer to a petition for divorce on the ground of his or her subsequent misconduct (*Gooch* v. *Gooch*, [1893] P. 99).

(*r*) The words in brackets will prevent previous misconduct being pleaded in answer: see *Rose* v. *Rose* (1883), 8 P. D. 98. But if the separation deed becomes void, the condonation covenant unless otherwise provided, falls with it, and the previous misconduct becomes available (if necessary) to ground a petition (see *Bourne* v. *Bourne*, [1913] P. 164; *Thompson* v. *Thompson*, [1916] P. 165, and *Lister* v. *Lister*, [1922] P. 227; decisions based on the law as it stood before the Matrimonial Causes Act, 1923 (13 & 14 Geo. 5, c. 19), s. 1, made the husband's subsequent adultery by itself a sufficient ground of divorce; see now the Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. 5, c. 49), s. 176 (*b*).

day of —— next upon trust to apply the same in the maintenance support and education of such daughter with power to pay the same to the wife during the minority of such daughter and the residence of such daughter with the wife without requiring her to account to them for the same. Such annual sum shall continue payable during the life of the longest liver of the husband and the wife.

6A. Each of them the husband and wife shall [at his or her own expense as the case may be] properly feed clothe educate and maintain the child or children for the time being living with him or her.

7. The wife shall be entitled for her separate use to all personal chattels effects and property generally now belonging to her or under her control and the husband disclaims all right whatsoever whether by virtue of survivorship or otherwise in such property and all right to administer her estate on her death in his lifetime And the husband will at his own expense whenever requested by the trustees execute and do such instruments and acts as shall be proper for giving effect to this clause.

8. The wife and the trustees hereby severally agree to keep the husband indemnified against all debts and liabilities which the wife may hereafter incur and all claims costs and expenses in respect thereof (*s*).

9. These presents shall become void if the husband and the wife return to cohabitation as man and wife or if their marriage shall be dissolved or a decree for judicial separation is hereafter pronounced on the ground of subsequent misconduct or offence on the part of either the husband or the wife but without prejudice to any act previously done or proceedings for breach of any stipulation herein contained previously commenced (*t*).

10. The statutory power of appointing a new trustee in the place of the said [*first trustee*] or his successors shall be vested in the husband and of appointing a new trustee in the place of the said [*second trustee*] shall be vested in the wife.

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

SERVICE AND AGENCY CONTRACTS

233.

AGREEMENT between Landowner and Bailiff (*a*)

AN AGREEMENT made the —— day of —— BETWEEN [*the landowner*] of &c. (hereinafter called the landowner) of the one part and [*bailiff*] of &c. (hereinafter called the bailiff) of the other part.

(*s*) A covenant extending the indemnity of the husband to the wife's pre-separation debts cannot be inserted in separation deed agreed to be executed with the usual clauses: *Brailey* v. *Brailey*, [1922] P. 15.

(*t*) See p. 422, note (*r*) *supra*.

(*a*) Stamp 6*d*. unless the bailiff is a labourer, (see *R.* v. *Wortley* (1851), 21 L. J. M. C. 44); see Stamp Act, 1891 (54 & 55 Vict. c. 39). Schedule "Agreements."

WHEREBY IT IS AGREED as follows :—

1. The landowner will employ the bailiff for the term of —— years determinable as hereinafter mentioned to manage his farm and lands called the —— Farm situate at &c.

2. The bailiff will at all times during the continuance of this agreement manage cultivate and improve the said farm [*if the bailiff is a working bailiff* and will himself assist in performing the labour required in such cultivation] and in particular according to the best of his ability skill and knowledge will endeavour to preserve and improve all the crops from time to time growing on the said farm and all the cattle stock implements and utensils used thereon.

3. The bailiff shall at all times keep duly posted all such books of account as are usually kept by bailiffs and will give the landowner full information when required as to his said management and will in every month [*or* week] truly account to the landowner or his agent for every sum of money which he shall have received and paid during the preceding month [*or* week] for or on account of the landowner in respect of the said farm crops cattle stock implements tools and utensils or in relation thereto.

4. [The landowner will forthwith open an account in the name of the bailiff in the —— Bank at —— and all moneys received by the bailiff in connection with the said farm and lands shall be forthwith paid by him into such account. Every payment exceeding £—— made by the bailiff shall be made by cheque drawn on such account. The landowner shall pay into such account such sum per month as shall be required for the management and cultivation of the said farm and lands and for the keep maintenance and purchase of all live and dead stock necessary for the efficient working thereof and for the preservation repair and renewal of all tools and utensils used thereon including all sums required for rent, rates, and taxes payable in respect thereof.]

5. The landowner will pay to the bailiff an annual salary of £—— payable by monthly instalments of £—— each and will also allow the bailiff to have the sole use and occupation free of all rents rates and taxes of the house known as —— situate on the said Farm so long as this agreement continues.

6. The bailiff shall in due course of management sell the stock crops and produce of the said lands from time to time as he in his discretion shall consider most advantageous and shall have power to purchase all such seeds implements tools and utensils as he shall reasonably require for the purpose of carrying on the said farm without being answerable or liable for any act loss or injury not being wilful or occasioned by improper negligence.

7. The bailiff shall have full power to hire pay and dismiss all labourers and other servants working on the said farm and shall on his request dismiss such of them as the landowner may from time to time require either on account of their idleness incapacity disobedience or other misconduct.

8. Notwithstanding the powers hereinbefore given to the bailiff he shall at all times and in all respects be under and subject to the superintendence control and direction of the landowner.

9. The bailiff will at all times devote the whole of his time and attention (except during holidays) to the management and cultivation of the said farm and will not carry on any business dealings or transactions whatever on his own account or on behalf of any other person.

10. The bailiff shall not make any alterations in or additions to any of the farm buildings machinery or fences without the previous consent in writing of the landowner and shall not farm the arable lands on any other than the —— course system or the most improved system of agriculture having due regard to the situations and soils and the previous cultures thereof.

11. The bailiff shall be entitled to a [fortnight's] holiday in each year at such time as the landowner shall appoint.

12. This agreement may be determined by either party giving to the other [three] calendar months' notice in writing determining at Lady day [or Michælmas, or any time (*b*)] and in the event of the bailiff committing any breach of this agreement or misconducting himself may be determined forthwith by the landowner without notice or compensation in lieu of notice. On any determination under this clause the bailiff shall forthwith deliver up possession of the said house to the landowner (*c*).

IN WITNESS, &c.

[*Signatures of both parties.*]

234.

AGREEMENT between Farmer and Labourer (*d*).

AN AGREEMENT made the —— day of —— BETWEEN [*farmer*] of &c. (hereinafter called the master) of the one part and [*labourer*] of &c. (hereinafter called the servant) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The servant will serve the master as a general farm labourer [*or* as carter] for one year from the —— day of —— next [on his farm known as the —— Farm at ——] at the weekly wage of —— shillings and the further sum of £—— in respect of extra labour during the harvest.

2. The wife [*name*] of the servant will also serve the master in a general capacity during the said period at the weekly wage of —— shillings and during haymaking and harvest months shall receive in addition to such wage —— shillings a day.

(*b*) It is usually more convenient that the period of service should terminate at the end of the customary farm year.

(*c*) As to recovery of possession by the landowner, where the house is within the Rent Restriction Acts, see Rent Restrictions Act, 1923 (13 & 14 Geo. 5, c. 32), s. 4, but see *Bracey* v. *Pales*, 136 L. T. 282; 43 T. L. R. 69, as to a tenant who is rent free.

(*d*) No stamp required.

3. The master will pay the servant and his wife such wages and additional payments as aforesaid punctually during the said term and allow the servant and his said wife the sole use and occupation of the cottage and garden situate at —— belonging to the master free from all rents rates and taxes [and will also during the said term provide all coals required by them for the use of the said cottage free of charge and supply them with potatoes at —— pence per stone and milk at —— pence per pint].

4. If the servant or his wife shall absent himself or herself from the said employment without the consent of the master or of his bailiff or shall be guilty of misconduct or commit any other breach of this agreement the master may determine this agreement and upon such determination the servant and his said wife shall forthwith give up peaceable possession of the said cottage and garden and shall be entitled to receive a proportionate part of the wages due to him and her as shall be equivalent to the time he and she have duly performed the said services but shall not be entitled to any other payment allowance or compensation whatever.

5. If the servant or his wife be prevented by sickness, accident, or other unavoidable cause, from attending to and performing his or her duties, such a proportionate part of the said wages as shall be equivalent to the time he or she shall be so disabled shall be deducted from his or her current wages (*e*).

6. The master may determine this agreement at any time by giving to the servant one week's notice in writing or paying him one week's wages in lieu of notice in addition to all wages and additional payments actually earned up to the date of determination by the servant and his said wife under this agreement.

IN WITNESS, &c.

[*Signatures of both parties.*]

235.

AGREEMENT between Master and Workman (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*employer*] of &c. (hereinafter called the employer) of the one part and [*workman*] of &c. (hereinafter called the workman) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The workman hereby agrees to serve the employer as a carpenter [*or* painter *or* paperhanger *or* plumber *as the case may be*] at —— in the county of —— for one year from the —— day of —— next and do and perform with all due despatch and punctuality according to the best of his skill and ability all such work as the employer shall require him to do in such capacity and at all times to conduct himself honestly, faithfully, and

(*e*) This will not affect the weekly payments for which the master may be liable under the Workmen's Compensation Act, 1925, where the accident causing incapacity arises out of and in the course of the employment: see Workmen's Compensation Act, 1925 (15 & 16 Geo. 5, c. 84), s. 1.

(*f*) No stamp.

properly in the course of such service towards the employer his customers and his other workmen.

2. The workman will not enter the service or employment of any other person at —— aforesaid or himself carry on or be interested in any business now carried on by the employer during the continuance of this agreement or afterwards within —— miles of —— during a further period of —— years without his written consent [and will not promote or become the member of any union, combination or strike] (*g*).

3. The employer will pay to the workman the weekly wages of —— shillings.

4. If the workman shall absent himself from the service of the said employer without his consent or be guilty of misconduct or commit any breach of this agreement he shall forfeit all wages which may then be due to him without prejudice to the employer's other remedies but if this agreement be determined as hereinafter provided the workman shall be entitled to the said wages up to the time of such determination.

5. If the workman shall at any time be incapacitated by illness or accident or other unavoidable cause from efficiently performing his duties pursuant to this agreement his wages shall not be payable during the time of such incapacity (*h*).

6. Either party may determine this agreement at any time by giving unto the other of them one week's previous notice in writing for that purpose.

IN WITNESS, &c.

[*Signatures of both parties.*]

236.

AGREEMENT between Builder and Artisan (*i*).

AN AGREEMENT made the —— day of —— BETWEEN [*master*] of &c. of the one part and [*artisan*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*master*] will employ the said [*artisan*] as a carpenter and joiner [in the said [*master's*] workshops at —— and not elsewhere without his consent] from the date hereof at the wages of —— shillings per week, and will pay him the same weekly on the last —— day in every week so long as he shall duly fulfil the agreements on his part herein contained.

2. The said [*artisan*] hereby agrees to serve the said [*master*] faithfully, in all things, during such service to duly observe and keep the [usual] hours for work according to the regulations for and to be observed by workmen in the said workshop and to properly and steadily perform all such

(*g*) It is doubtful if the restraint as to future employment could be enforced, see *Bowler and Blake* v. *Lovegrove*, [1921] 1 Ch. 642.

(*h*) See note (*e*) p. 426, *supra*.

(*i*) No stamp.

work as shall be required by the said [*builder*] or his foreman and not absent himself from such work without the said [*builder*] or his foreman's express consent.

3. The said [*artisan*] will not during the period of the said service do or perform the work of a carpenter or joiner of any kind for any other person whatsoever [and will not join in any strike, or become a member of any union or society except benefit or building societies to the prejudice or annoyance of the said [*master*] or any of his other workmen].

4. Either party may determine this agreement by giving the other of them one week's notice ending on the last day of the week.

5. The said [*master*] shall be at liberty to determine this agreement at any time for misconduct or breach of this agreement on the part of the said [*artisan*].

IN WITNESS, &c.

[*Signatures of both parties.*]

237.

AGREEMENT between Master and Domestic Servant (*k*).

I the undersigned [*master*] of &c. hereby agree to take [*servant*] of &c. into my service as butler [*or* valet *or* coachman *or* groom *or* footman] at the monthly wages of £—— and I the undersigned [*servant*] hereby agree to serve the said [*master*] honestly soberly and faithfully at all times and in all respects during my service and to conform to the rules of his establishment and conduct myself with propriety towards him his family and friends and not absent myself from such service at any time without leave. This agreement may be determined at any time by either party giving the other a month's notice, or on payment by the said [*master*] of a month's wages in advance except in case of misconduct on the part of the said [*servant*] in which case notice to leave such service forthwith may be given by the said [*master*] without payment in lieu of notice or compensation whatsoever.

DATED this —— day of ——, 19—.

[*Signatures of both parties.*]

238.

AGREEMENT between Householder and Female Servant (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*householder*] of &c. (hereinafter called the householder) of the one part and [*servant*] of &c. (hereinafter called the servant) of the other part.

(*k*) No stamp.

(*l*) No stamp. This form can be used even if the servant is a minor, as an infant's contract to serve will be binding if on the whole it is for the infant's benefit (see Halsbury's Laws of England, vol. 20, p. 72).

WHEREBY IT IS AGREED as follows :—

1. The householder hereby engages the servant as housekeeper [*or* cook *or* parlourmaid *or* housemaid *or* general servant *or as the case may be*] at —— House [*stating the address of the householder*] at the yearly wages of £—— payable monthly finding her proper board (not including alcoholic drink) and washing during the service.

2. The servant will serve the householder honestly, soberly and faithfully in all things in the capacity aforesaid during the term of such service and will in all respects conform to the hours and rules of the establishment of the householder and conduct herself with propriety towards all persons for the time being in the said house.

3. The servant shall be allowed to be absent from the said house for —— hours on [Tuesday] in every [*or* every alternate] week from —— o'clock in the afternoon [*or* evening] till —— o'clock at night and on every [*or* every alternate] Sunday from —— o'clock in the afternoon till —— o'clock at night but the householder may if in his [*or* her] opinion the circumstances of the household so demand require the servant to remain on duty on any weekday or Sunday during which the servant is under this agreement entitled to leave of absence PROVIDED that the householder shall in such case grant an equivalent leave of absence to the servant on some other day in the same or the following week.

4. Neither relations or friends of the servant shall be admitted to the said house without the express permission of the householder.

5. The duties of the servant shall be fixed from time to time by the householder.

6. The servant shall have the exclusive use of a separate bedroom [*or* shall share a bedroom with not more than one other maid-servant] [*if a housekeeper* and shall have a private sitting-room in which her meals shall be served to her].

7. This agreement may be determined at any time by a month's notice or payment of a month's wages in lieu of notice but in case of misconduct without any notice or payment in lieu of notice whatsoever.

IN WITNESS, &c.

[*Signatures of both parties.*]

239.

AGREEMENT for Employment of a Gardener (*m*).

THIS AGREEMENT made the —— day of —— BETWEEN —— of —— (hereinafter called the employer) of the one part and —— of —— of the other part.

WITNESSETH that the employer agrees to employ the said —— as gardener at —— on the following conditions to which the said —— hereby agrees.

(*m*) Stamp 6*d*.

1. The said —— shall employ his whole time in or about the premises and shall diligently serve the employer to the best of his ability.

2. He shall not dispose of any of the trees shrubs plants garden produce or other effects without the consent of the employer, nor shall he make any purchases or incur any liability in the employer's name without his sanction.

3. The said —— shall be paid [£——] per week and shall have the use of the gardener's cottage as part of his wages.

4. The said —— shall be a tenant at will of the said cottage during the period of his services as gardener (*n*).

This agreement may be determined by either party giving to the other four weeks' notice and the said —— shall immediately upon such determination yield up the peaceable and quiet possession of the said cottage. The employer will pay the rates and taxes in respect of the said cottage.

AS WITNESS the hands of the said parties.

[*Signatures of both parties.*]

240.

AGREEMENT between Merchant and Manager (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*merchant*] of &c. (hereinafter called the employer) of the one part and [*manager*] of &c. (hereinafter called the manager) of the other part.

WHEREBY IT IS AGREED as follows :—

1. During the term of —— years from the date hereof determinable as hereinafter mentioned the employer will employ the manager as manager of his business of [East Indian Merchant] now carried on at —— in the City of London.

2. The manager during the continuance of this agreement will well and faithfully serve the employer in such capacity as aforesaid and will at all times devote his whole time and attention to managing superintending and improving the said business to the utmost of his power skill and ability and will do and perform all such services acts matters and things connected therewith as the employer shall from time to time direct and are of a kind properly belonging to the duties of a manager.

3. The manager will not at any time except under legal process divulge any matters relating to the said business or the employer or any customer or agent of the said business which may become known to him by reason of his position as manager or otherwise howsoever save in so far as such disclosure shall be necessary in the interests of the said business and will be true and faithful to the employer in all dealings and transactions whatsoever relating to the said business.

(*n*) This clause would enable the employer to recover possession of the cottage under the Small Tenements Recovery Act, 1838.

(*o*) Stamp 6*d*.

4. The manager will keep or cause to be kept all such books of account or other books as the employer shall provide for that purpose, and will enter or cause to be entered therein the usual accounts or particulars of all goods merchandise articles and things bought received and sold or delivered upon credit or otherwise in the course of the said business and the rates and prices at which the same shall be so bought received sold or delivered in the course of the said business and will at all times render full information concerning the said business and all transactions therein to the employer and furnish him from time to time with accurate accounts of all business dealings and also with a daily statement of the bank balance of the said business.

5. The said books of account shall be kept at the office of the said business at —— and shall be open at all times to the inspection of the employer and any person authorised by him in writing in that behalf.

6. All moneys received by the manager during any weekday except such sum as shall be required to be retained as petty cash shall if possible be paid to the account of the employer at —— bank on or before the close of business hours at such bank on the day of receipt and every payment exceeding £[5] made by the manager on behalf of the said business shall be made by cheque drawn on the said account.

7. The manager shall not draw any bill on behalf of the employer or otherwise pledge his credit except so far as he may have been generally or specially authorised by the employer so to do.

8. The manager shall receive the following remuneration for his services namely :—

(*a*) A salary of £—— per annum payable by equal quarterly [*or* monthly] instalments of £—— each the first such payment to be made on the —— day of —— next and subsequent payments to be made on the —— day of —— the —— day of —— the —— day of —— and the —— day of —— in every year [*or* on the [last] day of each calendar month].

(*b*) A commission of £—— per cent. per annum on the net profits of the said business such commission to be paid within —— days after the [half]yearly accounts of the said business have been certified by the accountants employed by the employer [but so that the commission receivable by the manager shall not in any whole year be less than £——].

For the purposes of this clause the certificate of the said accountants as to the amount of the net profits of the business during any year or half-year shall be conclusive.

9. The manager shall be entitled to [four] weeks' holiday during the year at such times as the manager shall think fit subject to any special direction given to him by the employer.

10. During the continuance of his employment the manager shall not directly or indirectly be interested (except as a shareholder debenture holder or creditor of any limited liability company whose business does not compete with that of the employer) in any business trade or profession other than the business of the employer.

11. In the event of illness of the manager or other cause incapacitating him from attending to his duties for —— consecutive weeks the employer may determine this agreement without notice on payment to the manager of £—— in lieu of notice in addition to all arrears of salary and commission when ascertained up to the date of such determination.

12. Either party may determine this agreement by giving to the other [six] calendar months' notice in writing but without prejudice to any right or claim which may have then accrued to either of the said parties by virtue hereof.

13. If the manager shall commit a breach of any of the stipulations hereof, or shall commit an act of bankruptcy or compound with his creditors [or if he should otherwise misconduct himself (of which misconduct the employer shall be sole judge)] it shall be lawful for the employer to dismiss the manager summarily from his employment without any such notice or payment of salary or commission as hereinbefore mentioned.

14. If this agreement shall be determined the manager shall not for [10] years thereafter be directly or indirectly interested in any business of the kind carried on by the employer at the date of such determination within a radius of —— miles from —— aforesaid and will for every breach of this stipulation pay the employer £[100] as liquidated damages which sum shall be recoverable by the employer without proof of actual damage and shall be payable without prejudice to the right of the employer to obtain relief by way of injunction or otherwise.

IN WITNESS, &c.

[*Signatures of both parties.*]

241.

AGREEMENT between Merchant and Commercial Traveller (*p*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*employer*] of &c. (hereinafter called the employer) of the one part and [*traveller*] of &c. (hereinafter called the traveller) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The employer will employ the traveller for —— years from the date hereof as a commercial traveller in the employer's business of a [wholesale draper] subject to determination as hereinafter mentioned.

2. The traveller will during the said period diligently and faithfully serve the employer in such capacity as aforesaid and will at all times obey the directions of the employer in regard to such service.

3. The traveller shall travel in the districts of —— and —— but the employer may at any time require the traveller to travel any other district or districts [in England]. During the continuance of this agreement the employer will not authorise any other person to travel on his behalf in any district which the traveller shall for the time being travel.

(*p*) Stamp 6*d*.

4. The traveller shall use his utmost endeavours to obtain orders for the goods manufactured or supplied by the employer, and shall at regular intervals visit the present customers of the employer in the said districts and also endeavour to obtain fresh customers for such goods and shall accurately and promptly transmit all orders obtained by him to the employer.

5. The traveller will at all times keep full and accurate accounts of all orders received by him and of all other transactions and things undertaken by him in connection with the said business and in particular will forward to the employer daily a statement of all business done by him during each day specifying the persons or firms on whom he has called and the orders received by him.

6. If so directed by the employer but not otherwise the traveller shall collect debts and receive money on behalf of the employer and give receipts for the same (*q*). Any money received by the traveller shall be transmitted by him to the principal on the day of receipt.

7. [*Clause as to non-disclosure as in Form* 240, *clause* 3, p. 430, *supra*, *substituting* the traveller *for* the manager.]

8. [*Clause as to holidays as in Form* 240, *clause* 9, p. 430, *supra*, *substituting* the traveller *for* the manager.]

9. [*Clause as to competition as in Form* 240, *clause* 10, p. 430, *supra*, *substituting* the traveller *for* the manager, *and adding at the end of the clause* and will not solicit orders in any other district than those specified in clause 3 hereof without the direction in writing of the employer.]

10. The employer will pay to the traveller a salary of £—— per annum by quarterly [*or* monthly] instalments of £—— each the first such instalment to be paid on the —— day of —— next and will also pay to him a commission on the moneys actually received by the employer in respect of all original orders obtained by the traveller of £—— per cent. and on all repeat orders of £—— per cent. [*or* but not on repeat orders unless actually forwarded through the traveller] (*r*). The employer shall have full discretion as to executing any order obtained by the traveller.

11. The employer will also pay to the traveller a fixed sum of £—— to cover all expenses of travelling board lodging and otherwise [*or* The employer will at the end of each calendar month repay to the traveller all out-of-pocket expenses reasonably incurred by him as such traveller as aforesaid in or about the business of the employer].

12. In the event of the traveller becoming incapacitated for a period of —— weeks by illness or other cause from performing his duties hereunder the employer may determine this agreement at the end of such period on payment of a sum equivalent to one quarter's [*or* month's] salary in addition to all arrears of salary and commission actually due at the date of such determination, unless such illness or other cause shall be

(*q*) See *Butwick* v. *Grant*, [1924] 2 K. B. 483.

(*r*) As to commission on repeat orders after termination of employment, see *Crumb* v. *Goodwin*, [1919] 35 T. L. R. 477, and *Levy* v. *Goldhill*, [1917] 2 Ch. 297.

the result of the conduct of the traveller in which case the traveller shall be entitled only to arrears of salary and commission as aforesaid.

13. Either party may at any time determine this agreement by giving to the other [three] calendar months' notice in writing and the employer may in the event of any breach by the traveller of this agreement determine the same without notice or payment in lieu of notice.

14. After the determination of this agreement the traveller shall not for —— years be directly or indirectly interested or concerned in any way within any district or districts in which the traveller has at any time travelled on behalf of the employer in any business similar to that carried on by the principal at the date of such determination and shall not solicit for orders any person outside such district or districts who at any time during the continuance of this agreement was a customer of the employer.

IN WITNESS, &c.

[*Signatures of both parties.*]

242.

AGREEMENT between Manager and Retiring Tradesman (*s*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*tradesman*] of &c. (hereinafter called the employer) of the one part and [*manager*] of &c. (hereinafter called the manager) of the other part.

WHEREAS the employer has for many years past carried on at —— in the county of —— the business of [*state nature of business*] and desires to appoint the manager to take over and conduct the said business upon the terms and conditions hereinafter contained.

NOW IT IS HEREBY AGREED as follows :—

1. The employer shall employ the manager and the manager shall serve the employer for the term of —— years determinable as hereinafter mentioned as confidential manager of the said business.

2. The manager shall manage and conduct the said business and endeavour to maintain and extend the same to the utmost of his ability and in such manner as he shall in his discretion think best PROVIDED ALWAYS that the manager shall so far as possible at all times and from time to time carry out and execute all express directions given to him in writing by the employer relating to the conduct of the said business.

3. Subject to such directions as aforesaid the manager shall have full power and authority :—

(*a*) To sell or dispose of in the usual course of the said business all goods and articles for the time being forming part of the stock-in-trade of such business at such prices to such persons and upon such terms of immediate payment or credit as the manager shall think fit.

(*s*) Stamp 6*d*.

(*b*) To buy in the name and on behalf of the employer such goods articles and things as shall be requisite or desirable for the purpose of maintaining and replacing the stock-in-trade of the said business and extending and developing such business.

(*c*) To pay for any goods or articles so purchased as aforesaid in cash or on the usual terms of credit and for such purpose to draw and accept bills in the name of the employer.

(*d*) To engage and dismiss travellers agents assistants clerks and servants upon such terms as the requirements of the said business shall demand and pay them such remuneration either by salary wages or commission or otherwise as the manager shall in his discretion think fit.

(*e*) To retain out of any moneys received by him and available for the purpose the salary and share of profits hereinafter agreed to be paid.

4. The manager shall be paid by the employer a fixed salary of £—— per annum as from the date of this agreement such salary to be payable by equal monthly instalments of £—— on the —— day of every calendar month and shall also receive a sum equal to £—— per cent. on the net profits of the business for every half-year to be ascertained by the certificate of [*accountant*] of &c. or other the accountants for the time being of the employer. [No] allowance for interest or capital employed in the business shall be made in estimating such net profits.

[*Or if the manager's remuneration is to depend wholly on the profits of the business.*

4A. The manager shall receive by way of remuneration for his services £—— per cent. per annum of the net profits of the said business as ascertained by the certificate of the accountant for the time being of the employer but in ascertaining such net profits no allowance shall be made for any capital of the employer in the said business and neither the receipt of such remuneration nor any other provision of this agreement shall constitute the manager a partner of the employer. The manager shall be entitled to draw out of the said business a sum of £—— on the —— day of every calendar month in anticipation of such net profits and shall within —— days after the yearly account of trading shall have been completed repay to the said business the sum if any by which the total of such drawings shall have exceeded in such year the share of the manager in the said net profits so ascertained for such year.]

5. During the continuance of this agreement the manager shall be bound properly and efficiently to perform the following services :—

(*a*) During the hours of business namely between the hours of —— a.m. and —— p.m. on every weekday except [Thursdays] on which days the hours of business shall be from —— a.m. to —— p.m. to attend personally at the said premises and supervise and control the said business and be at all times accessible to the customers clerks assistants and servants therein employed.

(*b*) To keep or cause to be kept correct books of account relating to transactions of the said business the same to be punctually

posted up so as to furnish a proper and complete record of all stock-in-trade for the time being belonging to the said business and of all purchases and sales in respect thereof and of all moneys paid or received by him for or on account of the said transactions.

(*c*) To furnish to the employer on the —— day of —— and the —— day of —— in every year full and correct accounts of the stock-in-trade receipts and payments relating to the business during the preceding half-year and to produce to the employer or his accountant or agent all vouchers receipts cheques invoices and other documents which may be required by them for the purpose of checking and verifying the accuracy of such accounts.

(*d*) To allow the employer and his accountant or agent at all reasonable times to inspect the stock-in-trade of the said business and give them all information and assistance which they may require to enable them to ascertain the true position of the said business and the trade done on the said business premises.

(*e*) At all times to keep all books of account and invoices and vouchers on the said premises and in such a condition as to be easily available for the inspection of the employer his accountant or agent.

(*f*) Each day to pay into the —— bank to the credit of the account of the employer all moneys received by him in respect of the said business since the time of the preceding payment [except such sums as he shall think requisite for the purposes of petty cash] and to pay every debt incurred on account of the said business which exceeds £—— by cheque drawn on the said account and signed by him *per pro* in the name of the employer.

(*g*) Out of the moneys standing to the credit of the said account to pay all sums required for wages commissions rates taxes and other outgoings in respect of the business or for the payment for any goods purchased by him in carrying on such business.

(*h*) At all times to keep the business premises and all stock-in-trade goods furniture and effects therein duly insured against loss or damage by fire and to keep insured the clerks assistants and employees of the business against accidents and injury in the course of their employment, such insurances to be effected with such insurance company or companies as the employer shall approve and to pay all premiums necessary for keeping such insurances on foot out of the moneys for the time being standing to the credit of the said account.

6. The manager shall not at any time either directly or indirectly buy or sell or in anywise use trade or deal with the stock-in-trade moneys debts or effects from time to time forming part of or belonging to the employer or to the said business or any part thereof for his own use or benefit except as aforesaid or on any other account whatever than in the course and for the purposes of the said business.

7. The manager shall not without the consent in writing of the employer make any alterations in the business premises or in any manner injure the same.

8. The manager shall not do any act or thing whatsoever whereby the said business or the stock-in-trade fixtures fittings articles and effects of or belonging thereto or any part thereof shall or may be seized taken in execution charged or affected or whereby the interests of the employer therein may be prejudicially affected.

9. The manager shall not hold himself out as a partner with the employer in the said business.

10. This agreement may be determined by either party at any time by giving [six] months' previous notice in writing to that effect to the other party and may be determined without notice by the employer in the event of the manager becoming insolvent or committing any breach of any stipulation on his part herein contained.

11. The manager shall be entitled to [three] weeks' holiday in every year, such holiday to be taken in the month of [August].

12. The manager shall not during the continuance of this agreement be interested directly or indirectly in any business profession or trade except the business of the employer to which he shall devote the whole of his time and attention and after the determination of this agreement shall not for the period of [10] years be engaged in or directly or indirectly interested in any business similar to or competing with the business of the employer within a radius of —— miles from the said business premises and shall not in any case solicit orders after such determination from persons who during the continuance of this agreement have been customers of or have had business relations with the employer (*ss*).

13. Nothing herein contained shall constitute the manager a partner of the employer.

IN WITNESS, &c.

[*Signatures of both parties.*]

243.

AGREEMENT between Brewers and Manager of Public House (*t*).

AN AGREEMENT made the —— day of —— BETWEEN —— Co., Limited (hereinafter called the company) of the one part and [*manager*] of &c. (hereinafter called the manager) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The company will employ the manager and the manager will serve the company in the capacity of manager of the [*name of public house*] for a period of —— years from the date hereof unless previously determined under any provision hereinafter contained.

(*ss*) See *East Essex Farmers, Lim.* v. *Holder*, 70 S. J. 1001.
(*t*) Stamp 6*d*.

2. The manager shall during the continuance of this agreement continuously reside on the said premises but shall be under no personal liability for rent rates and taxes and the company shall provide the manager with all necessary light and fuel and shall furnish the manager with all requisite furniture for the residence of the manager his wife and family [consisting of —— children].

3. The company will pay the manager a salary of £—— a week the first payment to be made on the —— day of —— and a commission of —— per cent. on the net profits of the business done on the premises for the year such commission to be payable annually within —— days after the accounts of the company for such year shall have been finally made up and balanced and a proportionate part of such commission in respect of any year during which the manager's employment shall not have extended over the whole year. In ascertaining the net profits of the business done on the premises deduction shall be made for doubtful and bad debts and rates taxes and rent and other outgoings paid in respect of the premises but not for interest payable in respect of any mortgages or debentures or other charges of the company generally. The certificate of the company's accountant shall be conclusive as to the amount of such net profits in any year.

4. The manager shall devote his whole time and attention to the business of the said public house and endeavour to develop the same and conduct the same in a lawful and proper manner and in particular shall not do or permit to be done anything which may forfeit or imperil the licenses relating to the premises nor sell upon the said premises any liquor not supplied to him by the company or by other persons on the order of the company.

5. The manager shall keep proper books of account usually kept in connection with licensed premises and enter therein all receipts and payments by him in relation to the said business and particulars of all stocks of wines ales beer stout porter spirits and other liquors [and tobacco] from time to time on the premises and shall at all reasonable times produce such books and all vouchers and documents and furnish all information relating thereto to the company's inspectors and agents and give them all facilities for checking the accuracy thereof.

6. All moneys received by the manager shall be paid to the company's collectors or as the company shall direct at such times and in such manner as the company shall appoint.

7. The manager will at the cost of the company apply for such licenses as the company shall direct in respect of the said premises and will hold transfer and deal with such licenses as the company shall direct.

8. Either party may determine this agreement at any time by —— weeks' notice in writing sent by registered post to the other of them and the company shall also have power to determine this agreement forthwith by paying the manager —— weeks' salary in lieu of notice or in case the manager is convicted of any offence against the Licensing Laws or commits any breach of any stipulation on his part herein contained without notice or payment in lieu of notice.

9. Nothing herein contained shall constitute the manager a tenant of the company (*a*).

10. The manager shall not during the continuance of this agreement be directly or indirectly interested in any business except that of the company and shall not for a period of —— years after the determination of this agreement be so interested in the business of a licensed victualler spirit merchant grocer brewer or distiller within [20] miles of the said premises.

AS WITNESS, &c.

[*Signatures of both parties.*]

244.

AGREEMENT between Firm of Merchants or Tradesmen and Clerk (*b*).

AN AGREEMENT made the —— day of —— BETWEEN [*partners*] of &c. carrying on business in copartnership under the style of —— and Co. (hereinafter called the employers) of the one part and [*clerk*] of &c. (hereinafter called the clerk) of the other part.

WITNESSETH as follows :—

1. The employers hereby engage the clerk to serve them in the capacity of a clerk in their trade [*or* business] of [grocers *or* mercers *or as the case may be*] carried on at —— during the term of —— years [*or* months] from the date hereof [*or* the —— day of —— next] subject to the stipulations herein contained.

2. During the continuance of this agreement the clerk shall—

(*a*) Devote his whole time during business hours to the said trade [*or* business] and at all times faithfully obey and perform all the lawful and reasonable requirements and commands of the employers according to the best of his skill and ability and with due punctuality and despatch.

(*b*) At all times conduct himself honestly and properly in the course of such service towards the employers and their customers and also towards all other clerks and employees of the employers.

(*c*) Not divulge or disclose to any person or persons whomsoever any secret entrusted to him or coming to his knowledge in the course of his employment or otherwise either relating to the trade [*or* business] of the employers or of their customers or others which ought not to be disclosed or made public.

(*d*) From time to time upon request make and give to the employers full and perfect accounts of all work done and of all moneys

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(*a*) See *White* v. *Bayley* (1861), 30 L. J. (C. P.) 253 ; *Mayhew* v. *Suttle* (1854), 24 L. J. (Q. B.) 54.

(*b*) Stamp 6*d*. An agreement for the services of a clerk is not exempt from stamp duty (*Dakin* v. *Watson* (1841), 2 Craw. & D. 224).

received and paid by him in the course of such trade [*or* business] and of all goods and commodities received and delivered by him to any person or persons whomsoever in the course of such employment on account and for the use of the employers and duly vouch such accounts respectively and pay unto the employers all such sums of money as shall appear to be due from him to the employers upon balance of every such account.

(*e*) Not at any time or times during the said term without the consent of the employers to deliver upon credit to any person or persons whomsoever any of the goods wares merchandise or effects belonging to the employers or entrusted to his care or custody or for any purpose whatsoever pledge the credit of the employers.

(*f*) Not absent himself from the employers' place of business except with the consent of the employers or in the case of illness or unavoidable accident.

(*g*) Not enter into the service or employment of any other person during the said term.

3. The hours of business shall be from —— to —— on weekdays except Saturdays on which days the hours of business shall be from —— o'clock to —— o'clock [and bank holidays]. The clerk shall be entitled to [one hour] between the hours of —— a.m. and —— p.m. to be fixed from time to time by the employers for luncheon and to [two] weeks in the year at such time as the employers shall determine for holidays.

4. The employers shall pay the clerk an annual salary of £—— by monthly instalments of £—— the first such payment to be made on the —— day of —— next [and shall also provide the clerk with board and lodging at their said business premises or elsewhere].

5. Either party shall be at liberty to determine this contract at any time on giving to the other of them —— weeks' notice for that purpose.

[6. The clerk shall at his own expense enter into a bond to be executed by himself and a responsible surety [*or* provide the guarantee of a responsible corporation] in the sum of £—— by way of security for the honest and faithful discharge of his duties under this agreement.]

7. This agreement shall bind and be enforceable by the employers so long as they shall carry on their said business notwithstanding that they may take in any other person or persons as partners therein but may be determined without notice or payment in lieu of notice if the employers or either of them shall [become bankrupt or] cease to carry on their said business or the clerk shall be guilty of any misconduct or breach of this agreement.

IN WITNESS, &c.

[*Signatures of all parties.*]

245.

AGREEMENT between Tradesman and Assistant (*c*).

AN AGREEMENT made the —— day of —— BETWEEN [*employer*] of &c. (hereinafter called the employer) of the one part and [*assistant*] of &c. (hereinafter called the assistant) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The employer will employ the assistant and the assistant will serve the employer as from the —— day of —— next until this agreement is determined as —— in the employer's business of an [outfitter] carried on by him at —— in the county of —— at a salary of —— shillings a week payable on [Saturday] in each week, the first such payment to be made on the —— day of —— next.

2. The employer shall provide the assistant with board and lodging [and a separate bedroom] on the employer's premises at —— aforesaid during the continuance of this agreement.

3. The assistant shall at all times during the continuance of this agreement conduct himself with civility towards the employer and the customers of his business and all persons employed in the business or having relation therewith and shall not do anything which may prejudice the employer or the reputation of the business.

4. The assistant shall not be required to work except between the hours of —— and —— on any weekday except [Wednesday] on which day the hours of work shall be between —— a.m. and 1 p.m. But during stock-taking and during the three weeks immediately preceding Christmas Day the assistant may be required to work on any weekday except [Wednesday] until [11] p.m. but shall be paid —— pence for every hour of overtime after —— p.m. whether during such last-mentioned periods or not.

[4A. On full working days the assistant shall be entitled to [one hour] between the hours of [12.15 p.m. and 2.30 p.m.] to be fixed from time to time by the employer for dinner and to [half an hour] between the hours of [4.30 p.m. and 6 p.m.] to be fixed as aforesaid for tea] (*d*).

5. The assistant shall not be entitled to any salary in respect of any day during which he shall be wholly absent from his duties unless he shall be prevented by sickness or other unavoidable cause. In the event of the assistant not being present and ready to engage in his duties at the hour of

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(*c*) Stamp 6*d*. For agreements between employers and shop assistants suitable for an establishment where numerous assistants are employed, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 13, pp. 619 *et seq.*

(*d*) The assistant being presumably a " shop assistant " within the meaning of the Shops Acts, 1912 to 1921, the hours of employment, the times for meals and the weekly half-holiday must be in accordance with the provisions of those Acts (Shops Act, 1912 (2 Geo. 5, c. 3), ss. 1, 4, 19 and First Schedule; Shops (Early Closing) Act, 1920 (10 & 11 Geo. 5, c. 58); Shops (Early Closing) Act (1920), Amendment Act, 1921 (11 & 12 Geo. 5, c. 60), and the orders made by the local authorities thereunder. See also Shops Regulations, Stat. R. & O., [1912] No. 316 and [1913] No. 250. Shop assistants may be employed after closing time for any purpose except the actual serving of customers. As to the intervals for meals see *Hutchison* v. *Cumming*, [1926] S. C. (J.) 110.

—— a.m. on any weekday unless prevented as aforesaid he shall forfeit by way of fine —— pence for every quarter of an hour or part thereof during which he is not so present and ready.

6. The assistant shall at all times observe and obey all rules and regulations made by the employer for the conduct of the said business and the management of the said business premises.

7. The assistant shall be entitled to holidays on the usual Bank holidays Christmas Day and Good Friday and during [one] week at such time as the employer shall select during each year.

8. This agreement may be determined by either party by giving to the other one week's notice in that behalf and by the employer by payment of one week's salary in lieu of notice or in the event of any breach by the assistant of any stipulation of his part herein contained or of wilful and persistent disobedience to any regulation made by the employer or of any misconduct or dishonesty on the part of the assistant by notice in writing forthwith without any payment in lieu of notice.

9. During the continuance of this agreement the assistant shall not be engaged directly or indirectly in any business or employment except that of the employer.

IN WITNESS, &c.

[*Signatures of both parties.*]

246.

AGREEMENT between Builder and Architect (*e*).

AN AGREEMENT made the —— day —— BETWEEN [*architect*] of &c. of the one part and [*builder*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. [In consideration of £—— now advanced to him on his promissory note by the said [*architect*]] the said [*builder*] will employ the said [*architect*] as an architect and surveyor, in his business of a builder, from the date hereof until such employment shall be determined as hereinafter mentioned.

2. The said [*builder*] will pay the said [*architect*] for his said services a salary equal to a percentage of £—— per cent. on the net profits of his said business and of any other business in which he shall hereafter be engaged or undertake and in which he shall require the services of an architect or surveyor such percentage to be ascertained upon a true and accurate statement which the said [*builder*] will render to the said [*architect*] quarterly of such business and the profits thereof. The amount of such net profits shall be ascertained after allowance has been made for bad and doubtful debts and usual outgoings but not for interest on the capital (whether loan capital or otherwise) if any of the said [*builder*] in the business. If any dispute arises as to the amount of such net profits

(*e*) Stamp 6*d*.

the same shall be finally determined by [*accountant*] of &c. or him failing by [*accountant*] of &c.

3. The said [*architect*] hereby agrees to perform such professional services as an architect and surveyor as the said [*builder*] shall from time to time require of him according to the best of his ability in all respects.

4. The said [*architect*] shall at all times during the continuance of the said employment [and afterwards so long as any money shall remain due to him upon the said note] be entitled to have access to and to inspect examine copy or make extracts from the account and work-books of the said [*builder*] for the purpose of ascertaining the true amount of the said percentage and the matters and transactions connected therewith and for any purpose whatever relating thereto.

5. Either of the said parties shall be at full liberty at any time to determine the contract hereby made on giving unto the other of them —— calendar months' notice in writing of his intention so to do.

[5A. In case this agreement shall be so determined as aforesaid before the whole of the said sum of £—— shall have been paid the balance thereof shall immediately thereupon become due and recoverable upon or by virtue of the said promissory note.]

[5B. So long as any money shall be due on the promissory note the said [*builder*] shall pay the said [*architect*] interest thereon at the rate of £5 per cent. per annum in addition to the said salary if payable.]

6. Nothing herein contained shall constitute a partnership between the parties hereto.

IN WITNESS, &c.

[*Signatures of both parties.*]

247.

AGREEMENT between Doctor and Assistant with a view to an ultimate Partnership (*f*).

AN AGREEMENT made the —— day of —— BETWEEN [*doctor*] of &c. (hereinafter called the employer) of the one part and [*assistant*] of &c. (hereinafter called the assistant) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The employer will employ the assistant and the assistant will serve the employer as assistant in the employer's practice as general medical practitioner in —— and the neighbourhood for a period of —— years determinable as hereinafter mentioned at a salary payable monthly of £[250] per annum.

2. The employer will furnish the assistant during the continuance of this agreement with board and lodging but not laundry in the house of the employer at ——.

(*f*) Stamp 6*d*.

3. The assistant shall carry out all directions given to him by the employer from time to time and subject thereto shall attend at the dispensary adjoining the house of the employer between the hours of —— and —— a.m. each [week] day and shall mix and compound all drugs and medicines required in the practice of the employer [and shall attend the —— Cottage Hospital on [Tuesdays] at such hours as the employer shall require].

4. The assistant shall render to the employer a proper account of all professional visits paid and services rendered by him and shall keep duly posted up the books relating to the practice and make out accounts of all fees due to the employer and send the same to patients at such times as the employer shall direct.

5. The assistant shall not disclose any information relating to the practice or the patients of the employer which he may acquire to any person except the employer or be guilty of any breach of any professional custom or etiquette or be engaged on his own account or on behalf of any person except the employer in medical practice or do anything which may tend to injure the reputation of the employer or his practice.

6. The assistant shall be entitled to [three] weeks' holiday in every year at such time or times as the employer shall think desirable, having regard to the exigencies of the employer's practice. Save as aforesaid and unless by reason of illness or other unavoidable cause, the assistant shall at all times hold himself in readiness to attend to any patient of the employer who may require his services whether by day or night.

7. The assistant shall be at all times entitled to the use of the employer's motor car [*or* horses and carriage] for the purposes of the practice when the same is [*or* are] not required by the employer.

8. The assistant while residing with the employer will conform to the customs and regulations of the employer's household and will do nothing to which the employer or any member of his family may reasonably take objection.

9. This agreement is determinable at any time by either party by [one] month's previous notice in writing. For [10] years after such determination the assistant shall not be directly or indirectly concerned or interested in the practice of a physician surgeon or general medical practitioner within a radius of [50] miles of the employer's residence [*or* surgery] at —— and will not except in cases of urgent necessity attend any person or give medical advice either verbally or by letter to any person known by him to have been a patient of the employer during the continuance of this agreement and to be usually residing at the date of such attendance or advice within [50] miles of the employer's residence [*or* surgery].

10. If this agreement shall not have been determined by either party [six] calendar months before the end of the said period of —— years the assistant shall have the right to elect to enter into partnership with the employer in the employer's said practice upon the terms of the partnership articles contained in the Schedule hereto. If the assistant shall so elect

he shall give notice in writing to the principal to that effect at least [three] calendar months before the expiration of the said period.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

[*Articles of partnership*].

[*Signatures of both parties.*]

248.

AGREEMENT for Agency in a Horsedealing Business (*g*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*horse-dealer*] of &c. (hereinafter called the principal) of the one part and [*agent*] of &c. (hereinafter called the agent) of the other part.

WHEREAS the principal carries on the business of a horsedealer in England and the agent carries on a like business in the [United States of America]

AND WHEREAS it is proposed that the agent shall act as the agent of the principal in selling and disposing of the horses of the principal in the said [United States of America].

NOW IT IS HEREBY AGREED as follows :—

1. The principal hereby appoints the agent to be his sole agent in the [United States of America] for the sale and disposal of all stallions hackneys hunters mares horses galloways and ponies (all of which are hereinafter referred to as horses) belonging to the principal and consigned by him to the said country.

2. The agent will well and faithfully serve the principal as his agent and use his utmost endeavours to extend the sale of the principal's horses in the [United States of America].

3. The principal shall at least one week before consigning any horse or horses to the agent send to the agent a written notification specifying the horse or horses consigned the date and place of arrival and the minimum price or prices at which such horse or horses are to be sold. The agent shall endeavour to sell the said horse or horses at the best price obtainable but in no case below the minimum price without the express consent of the principal.

4. The agent shall not sell any horse of the principal to any person usually residing outside the area of the [United States of America] or to any person who to his knowledge intends to export the same. The principal shall not during the continuance of this agreement sell any horse in the [United States of America] except through the agency of the agent and all horses sold by the principal in England to any person usually

(*g*) Stamp 6*d*.

resident in [the United States of America] shall for the purposes of ascertaining the remuneration of the agent be deemed to have been sold through the agency of the agent.

5. Upon receipt of any order for English-bred horses which the agent is unable to fulfil out of his stock of the principal's horses for the time being in his possession the agent shall promptly transmit such order to the principal who will use his best endeavours to execute the same by supplying the required animal to the agent or as he shall direct.

6. The agent shall not during the continuance of this agreement deal in English-bred horses except on account of the principal but shall be at full liberty to deal on his own account or on account of any other person in horses not so bred.

7. The agent shall keep all horses consigned to him properly stabled fed and cared for and insured against loss or injury as from the date of disembarkation in [the United States of America].

8. All costs and expenses incurred by the agent for transport insurance stabling feeding and tending the horses of the principal and all customs and other duties paid by the agent in respect of the same and all sums paid by the agent for books stationery telegrams cablegrams postage travelling and other matters in connection solely with the said agency shall be repaid to the agent by the principal every [three] calendar months.

9. The principal and agent shall keep true accounts of their respective dealings with the horses of the principal subject to this agreement and shall furnish copies of such accounts each to the other of them at regular intervals not exceeding [three] calendar months.

10. As soon as such accounts have been agreed between the parties hereto a balance shall be struck and the balance so appearing due from either party to the other shall be forthwith paid.

11. The agent shall receive by way of remuneration one [third] of the net profit received on the sale of each horse sold or deemed to have been sold through his agency. Such net profit shall be ascertained by deducting from the price actually received for such horse all expenses incurred by the principal or the agent for purchasing breeding rearing stabling feeding tending transporting and insuring such horse and otherwise in respect of the same. The amount of such net profit shall if the parties hereto cannot agree be ascertained and certified by some chartered accountant to be agreed upon who shall have access to all books vouchers accounts and documents in the possession of either party hereto and shall receive full information and assistance from each of them. Such certificate shall be conclusive and the fees of such accountant shall be borne by the parties hereto in equal shares. PROVIDED ALWAYS that the agent shall in any event receive under this clause in respect of every horse actually sold through his agency at least [10] per cent. of the gross price received on the sale of each horse.

12. Either party may give to the other [3] calendar months' notice in writing determining this agreement and at the expiration of such notice this agreement shall absolutely determine but without prejudice to any

rights or liabilities of either party acquired or incurred in relation to any matter or thing done or omitted prior to such determination.

13. Any dispute arising between the parties hereto and all persons respectively claiming under them relating to the construction meaning or effect of this agreement or the rights duties and liabilities of either party hereunder except as hereinbefore provided shall be determined by two arbitrators one to be appointed by each party or their umpire and such arbitration shall in all respects conform with the Arbitration Act, 1889.

14. Nothing herein contained shall constitute a partnership between the principal and the agent.

15. This agreement shall in all respects be construed and take effect according to the law of England.

AS WITNESS, &c.

[*Signatures of both parties.*]

249.

AGREEMENT for appointing an Agent for sale of a Patented or other Article (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*principal*] of &c. of the one part and [*agent*] of &c. of the other part.

WHEREAS the said [*principal*] is the sole proprietor and owner of a certain [*state the name of the article, its purpose, and if the subject-matter of a patent, refer to title, date, and number*] and being anxious to introduce the same to public notice and patronage he has agreed to appoint the said [*agent*] to be his sole agent for that purpose [in the United Kingdom] upon the terms hereinafter expressed.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*principal*] hereby agrees with the said [*agent*] that the said [*principal*] will from henceforth for the space of —— years now next ensuing every week consign and transmit to the said [*agent*] at —— such quantity of the said [*article*] as shall amount in value according to the present current price of the same in bottles to the sum of £—— [and also any additional quantity which he may from time to time require, and with which the said [*principal*] may be able to supply him, during the said term the said [*agent*] paying the carriage and porterage of each consignment.]

2. The said bottles shall respectively contain not less than a [quart] of the said [*article*] when they shall leave the warehouse of the said [*principal*].

3. The said [*article*] which shall be so consigned to the said [*agent*] in pursuance hereof, shall be pure, and not in any respect of an inferior

(*h*) Stamp 6*d*. The terms of agreements of this character vary considerably according to the nature of the article sold. For an agreement relating to the sale of a patent medicine, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 1, p. 120.

quality or description of that which has been heretofore used and sold by the said [*principal*].

4. The said [*principal*] will not during the said term sell the said [*article*] to any other person or persons whomsoever or appoint any other agent or agents whatever to sell the same on his account without the knowledge and consent in writing of the said [*agent*] but all orders for the said [*article*] which may be obtained or procured by the said [*principal*] shall be transmitted to and be executed by the said [*agent*] during the said term provided the same orders be executed by the said [*agent*] with due despatch and upon the same terms and conditions with respect to the persons or agents procuring the same as such orders have hitherto been executed by the said [*principal*].

5. The said [*principal*] will allow the said [*agent*] a discount, after the rate of £—— per cent. on the market price of such quantity of the said [*article*] as shall be consigned to him by virtue hereof during the said term.

6. The said [*agent*] hereby agrees with the said [*principal*] forthwith to take and receive of and from the said [*principal*] such quantity of the said [*article*] as shall amount in value, according to the present current market price of the same in bottles, to the sum of £—— upon being allowed a discount thereon after the rate aforesaid and to pay or remit the value thereof after deducting such discount, to the said [*principal*] or to his order upon delivery of such [*article*] at the warehouse of the said [*agent*].

7. The said [*agent*] every week henceforth during the said term will also take and receive of and from the said [*principal*] such quantity of the said [*article*] as the said [*principal*] shall consign and transmit to him under or by virtue hereof not exceeding in value in any week the sum of £—— upon the terms aforesaid and also will take and receive upon the same terms so much and such additional quantity of the said [*article*] as the said [*agent*] shall from time to time order and require of and from the said [*principal*] during the said term and which the said [*principal*] may send him accordingly.

8. The said [*agent*] will on the —— day of —— next and upon [*Monday*] in every alternate week afterwards during the said term of —— years pay to the order or remit to the said [*principal*] acceptances to his bills of exchange each payable not more than —— days after the date thereof the amount in value (to be computed as aforesaid) of such quantity of the said [*article*] as the said [*principal*] shall have consigned to him during every —— preceding or intermediate weeks as aforesaid, without any deduction whatsoever, except the discount thereon after the rate aforesaid.

9. The said [*agent*] will use his utmost endeavours to introduce the said [*article*] to public notice and patronage and to bring it into general use.

10. The said [*agent*] shall bear and pay all losses damages debts and liabilities incurred by him or his agents or servants in and by the sale of the said [*article*] and all costs and expenses whatsoever of publishing circulating and vending the same and every other expense whatsoever relative and incidental thereto save and except any costs damages, and

expenses incurred by any action, prosecution or other proceeding brought against the said [*agent*] in respect of the title of the said [*principal*] to the said article and the right to advertise and sell the same on his behalf in respect of which costs damages and expenses the said [*principal*] shall at all times indemnify the said [*agent*].

11. The said [*agent*] will bear and pay all losses, damages, and expenses whatsoever attending the transmission thereof after the parcels or packages of the said [*article*] shall have been respectively delivered by the said [*principal*] to the carrier or other persons appointed by the said [*agent*] to receive the same.

12. If the said [*agent*] shall during the said term exert himself to the best of his power skill and judgment to introduce the said [*article*] to public notice and patronage and to bring it into general use and in all other respects conduct himself in a fit and proper manner as such sole agent as aforesaid the said [*agent*] shall at the expiration thereof have the option either of continuing his agency for the exclusive sale of the said [*article*] for the further term of —— years thence next ensuing upon the same or the like terms and conditions as are hereinbefore expressed or as near thereto as circumstances will permit or at any time thereafter during the further term of —— years of becoming a partner in the said business upon equal terms with the said [*principal*] upon payment to him of a premium or sum of money after the rate of —— years' purchase to be calculated upon the average amount of the clear annual profits which the said [*principal*] shall have acquired by the manufacture and sale of the said [*article*] during the then —— preceding years.

13. On the death of either party this agreement shall forthwith determine except as regards claims in respect of acts or things which have been done or happened prior to such death.

IN WITNESS, &c.

[*Signatures of both parties.*]

250.

AGREEMENT for Agency to sell Goods Abroad (*i*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parties as in Form* 249, p. 447, *supra*].

WHEREAS the said [*principal*] having shipped on board a ship called The —— now lying in the port of —— and bound for —— whereof —— is master a cargo of [wheat] amounting in value to about £—— sterling has entrusted the same to the care of the said [*agent*] to sell and dispose thereof at —— aforesaid upon the terms and conditions hereinafter mentioned.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*agent*] hereby agrees with the said [*principal*] that he will take the said cargo with him to —— aforesaid, and there sell and

(*i*) Stamp 6*d*.

dispose thereof. [*If the agent is to act as a general agent, add* And also of all such other goods wares or merchandise as shall hereafter be consigned by the said [*principal*] to him at —— aforesaid] to the best advantage and for the best price or prices that he can obtain for the same, and will forthwith [*or* from time to time] remit [in good bills of exchange] the proceeds of such sale or sales to the said [*principal*] or to such other person or persons and in such other manner as he by writing shall from time to time direct subject to the deductions hereinafter expressed.

2. The said [*agent*] will render to the said [*principal*] true and proper accounts of every such sale effected by him [with the names of the purchasers] and of all sums received and paid by the said [*agent*] for or on account or in respect of the shipping (*k*) unloading cartage [unpacking warehousing storing and clearing] and all other expenses attending and incident as well to the said cargo voyage and freight as also to the sale of every other consignment or any part or parts thereof and will keep proper books of account which shall be deemed to be the property of the said [*principal*].

3. The said [*agent*] will not act as agent for any other person or firm whatever [at —— aforesaid] or purchase or receive for sale any goods wares or merchandise whatever either in his own name and on his own account or in the name or on account of any other person or firm than the said [*principal*] during the continuance of the engagement hereby made.

4. The said [*principal*] hereby agrees with the said [*agent*] that he will allow the said [*agent*] to retain out of the proceeds of the sale or sales of the said cargo [and of any other goods, wares or merchandise which may hereafter be shipped to him] a commission after the rate of £—— per cent. on the gross amounts thereof, and also all necessary reasonable and customary expenses of and attending the freight of the said cargo and the sale or sales thereof and incident thereto as aforesaid.

5. The said [*principal*] will not during the continuance of this agreement employ any person other than the said [*agent*] as his agent or factor at —— for the sale or disposal of any goods wares or merchandise manufactured or supplied by the said [*principal*].

6. The said [*principal*] shall at all times be at full liberty, either personally or by any person duly authorised by him for the purpose to inspect all or any part or parts of any cargo then unsold wherever the same may then be and all books of account to be kept by the said [*agent*] as aforesaid and all securities documents vouchers and writings whatsoever held by him relating to the matters aforesaid and to make and carry away any copies of, or extracts from the same respectively for the use benefit or satisfaction of the said [*principal*] or for any other purpose required by or for him.

7. Either party may determine this agreement by [three] months' previous notice in writing to the other of them.

IN WITNESS, &c.

[*Signatures of both parties.*]

(*k*) These are usually arranged by the bill of lading before the vessel leaves the port.

SOLICITORS.

251.

AGREEMENT between Solicitor and Client for Remuneration in Respect of Conveyancing (*l*).

AN AGREEMENT made the —— day of —— BETWEEN [*client*] of &c. (hereinafter called the client) of the one part and [*solicitor*] of &c. (hereinafter called the solicitor) of the other part.

WHEREAS the client is engaged in extensive transactions relating to buying selling mortgaging leasing and dealing with land and is desirous of retaining the solicitor as his solicitor in relation to such transactions.

NOW IT IS HEREBY AGREED as follows :—

1. The client will employ the solicitor to act as his solicitor in all matters of conveyancing arising out of or incidental to any sale purchase mortgage lease or other dealing with land or buildings [in the county of ——] into which the client may hereafter enter or be engaged in.

2. The solicitor shall to the utmost of his ability and skill on behalf of the client investigate and advise on titles prepare and peruse abstracts of title contracts conditions [and particulars] of sale requisitions answers instructions to counsel deeds declarations and all other necessary documents make searches and journeys hold interviews and conferences with counsel and others pay stamp duties and fees and generally act as the client's solicitor in completing any such transaction as aforesaid.

3. The client shall pay to the solicitor [in addition to all out-of-pocket expenses incurred by him in payment of travelling expenses fees to counsel and counsel's clerks surveyor's charges and stamp duties (*m*)] a percentage at the following rates by way of remuneration namely :—

(1) On sales and purchases £—— per cent. on the total purchase-money.

(2) On money borrowed on mortgage by the client £—— per cent. on the amount of the loan.

(3) On money lent on mortgage by the client £—— per cent. on the amount of the loan.

(4) On leases £—— per cent. on the amount of the rent payable for the first year of the term during which a money rent is made payable.

(*l*) Stamp 6*d*. Under the Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 8, it is competent for a solicitor and client to make any agreement for the remuneration of the solicitor by a gross sum, or by commission, or percentage, or by salary, or otherwise in business relating to sales, purchases, leases, mortgages, settlements, and other matters of conveyancing and business not being business in an action or transacted in any court or the chambers of any judge or being otherwise contentious business. By s. 8 (2), the agreement must be in writing signed by the party to be charged thereby or his agent (see *Re Frape*, [1893] 2 Ch. 284 ; and see generally *Re Haslam and Hier-Evans*, [1902] 1 Ch. 765). If on any order for taxation of costs the agreement is alleged by the client to be unfair or unreasonable the taxing master may inquire into the facts and certify the same to the Court, and the Court has power to cancel the agreement or reduce the amount payable thereunder (Solicitors' Remuneration Act, 1881, s. 8 (4)).

(*m*) See Solicitors' Remuneration Act, 1881, s. 8 (3).

The said percentages shall be accepted by the solicitor in lieu of and satisfaction for all professional costs charges and expenses [save in respect of the above-mentioned out-of-pocket expenses] which but for this agreement the client would be liable to pay to the solicitor.

4. If any of the said sales, purchases, mortgages, leases or other transactions shall prove abortive, the solicitor shall not be entitled to any payment for his services in connection therewith but shall charge only for his out-of-pocket expenses in respect thereof.

5. This agreement shall not extend to any litigation or contentious matters whether arising out of the said sales purchases mortgages leases and other transactions or not. In respect of such litigation or contentious matters the solicitor shall if retained by the client therefor be entitled to be paid and recover his ordinary professional costs charges and expenses.

6. Either party may give the other notice to determine this agreement and at the expiration of [one] calendar month after the date of such notice this agreement shall determine accordingly but such determination shall not affect transactions pending at the date of such notice which shall be duly completed notwithstanding such determination.

IN WITNESS, &c.

[*Signatures of both parties* (*n*).]

252.

AGREEMENT between Solicitor and a Company for Conducting all Legal Business at a Salary (*o*).

AN AGREEMENT made the —— day of —— BETWEEN [*company*] whose registered office is situate at —— (hereinafter called the client) of the one part and [*solicitor*] of &c. a solicitor of the Supreme Court of Judicature (hereinafter called the solicitor) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The client will employ the solicitor and the solicitor will act for the client as solicitor in all business of the client requiring the employment of a solicitor including all matters relating to conveyancing compensation litigation proceedings and otherwise.

2. The remuneration of the solicitor for all such business as aforesaid (including all charges for his own and all profit costs) shall be a salary of £[800] per annum payable half yearly on the —— day of —— and the —— day of ——.

(*n*) Solicitors' Remuneration Act, 1881, s. 8 (2). The agreement need only be signed by the party to be charged (*Re Frape*, [1893] 2 Ch. 284).

(*o*) Stamp 6*d*. This agreement which operates under both the Solicitors Act, 1870 (33 & 34 Vict. c. 28), s. 4, and the Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 8, does not preclude the client from obtaining on taxation in a litigation from an unsuccessful opponent a proper sum for taxed costs of the action attributable to the profit costs of the client's solicitor (*Henderson* v. *Merthyr Tydfil Urban Council*, [1900] 1 Q. B. 434); and for the principle governing such cases, see *Gundry* v. *Sainsbury* [1910] 1 K. B. 645; *Adams* v. *London Improved Motor Coach Builders, Ltd.* (1921), 1 K. B. 495, C. A.

3. All disbursements and out-of-pocket expenses incurred by the solicitor in or relating to the business of the client shall be paid by the client and be subject to taxation in the usual way.

4. The solicitor shall during the continuance of this agreement devote himself exclusively to the legal business of the client, and shall not act as solicitor for any other person [except his own relations] or company.

5. The solicitor shall during the continuance of this agreement conduct the said business of the client to the best of his skill and ability, and shall be entitled to employ at the client's expense a sufficient staff of competent clerks and servants to enable the said business to be promptly and satisfactorily conducted.

6. Either party may determine this agreement by notice in writing to the other party stating his or their intention to determine the same at the expiration of [one] month from the date of such notice and the client may determine this notice forthwith in the event of any neglect of his duties by the solicitor. Upon the determination of this agreement and payment of a proper proportion of the said salary up to such determination and payment of all disbursements and out-of-pocket expenses incurred up to the date thereof the solicitor shall deliver all deeds documents and papers in his possession relating to the business of the client (except his diaries and cost books) to the client or as the client shall direct and shall continue to afford them all reasonable assistance in concluding pending matters at the date of such determination without making any charge therefor.

AS WITNESS, &c.

[*Signatures of both parties.*]

253.

AGREEMENT for Remuneration in respect of a Particular Transaction (*p*).

AN AGREEMENT made the —— day of —— BETWEEN [*solicitor*] of &c. (hereinafter called the solicitor) of the one part and [*client*] of &c. (hereinafter called the client) of the other part.

WHEREAS the client is contemplating the purchase of certain [mineral] properties known as —— in the county of —— which are at present believed to be the property of [*vendor*] of &c. and has requested the solicitor to act as his solicitor in connection with the said purchase.

NOW IT IS HEREBY AGREED as follows :—

1. The client will employ the solicitor as his solicitor in connection with all matters relating to the negotiation for and completion of the said purchase.

2. The solicitor shall to the best of his skill and ability negotiate with the said [*vendor*] for the purchase of the said properties at a price not exceeding £—— and will peruse and settle all contracts investigate

(*p*) Stamp 6*d*.

all titles prepare and deliver such requisitions and objections make such searches and prepare and engross such documents as shall be necessary or proper to vest the said properties in the client for an estate of fee simple in possession free from incumbrances.

3. The client will on the completion of the said purchase pay to the solicitor the sum of £—— which sum shall cover not only all profit costs of the solicitor but all disbursements which would otherwise be chargeable against the client.

4. If any litigation shall arise in connection with the said purchase the solicitor shall be entitled to charge and be paid by the client all usual and proper costs and charges in respect of the same.

5. Nothing herein contained shall compel the client to complete the said purchase at the said price of £—— or any other sum but if for any reason the said purchase should be abandoned the solicitor shall be entitled to be paid by the client forthwith the sum of £—— in satisfaction of all claims for costs and disbursements whatsoever.

IN WITNESS, &c.

[*Signatures of both parties.*]

254.

AGREEMENT for Remuneration for Professional Services in respect of an Action (*q*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*solicitor*] of &c. of the one part and [*client*] of &c. of the other part.

WHEREAS the said [*client*] is claiming an estate situate at &c. and known by the name of —— Farm which is now held adversely by —— and is in the occupation of —— as his tenant [*Or* a [distributive] share of the effects of —— late of &c. deceased] [*or* one —— share of the proceeds of the estate of —— late of &c. deceased and bequeathed by his will to the said [*client*]]. [*Or* a house and other property devised to the said [*client*] by the will of his late father in reversion after the death of his

(*q*) Stamp 6*d*. By the Attorneys and Solicitors Act, 1870 (33 & 34 Vict. c. 28), s. 4, a solicitor may make an agreement, *in writing*, with his client respecting the amount and manner of payment for the whole, or any part, of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such solicitor whether as solicitor, advocate, or conveyancer either by a gross sum, or by commission or percentage, or by salary or otherwise, and either at the same or at a greater, or at a less rate as or than the rate at which he would otherwise be entitled to remuneration, subject to the provisions in the Act contained; and, notwithstanding previous decisions to the contrary, such agreement will be binding if signed only by the client to be bound thereby (*Re Jones* [1896], 1 Ch. 222; *Re Baylis*, [1896] 2 Ch. 107; *Re Frape*, [1893] 2 Ch. 284); but if the agreement relates to business done in court, no payment can be made under it until it has been examined and allowed by the proper taxing master, who may refer it to the court or judge, who can reduce the amount or cancel the document. With regard to conveyancing and other non-contentious business, the Act of 1870 no longer applies since the remuneration of solicitors and the taxation of their bills of costs is now regulated by the general order made under the Solicitors' Remuneration Act, 1881: see s. 9 thereof and p. 451, note (*l*) *ante*.

widow who is now deceased] [*Or* a debt or sum of £—— which is due to him from —— of &c. [*or as the case may be*]] and has requested the said [*solicitor*] to act as his solicitor in recovering the said estate [*or* property] [or enforcing payment of the said debt *or as the case may be*] for the remuneration hereinafter mentioned.

NOW THESE PRESENTS WITNESS as follows :—

1. The said [*solicitor*] hereby agrees to institute and prosecute all such proceedings as he may consider necessary or be advised for asserting and establishing the right of the said [*client*] to and recovering possession of the said estate [*or* property *or* debt *or as the case may be*] for him and will use diligence in the said business and proceed therein and in the said proceedings with all practicable and reasonable despatch and in all respects according to the best of his skill and ability in order to bring the said proceedings to a successful result the said [*client*] giving all information and assistance in his power.

2. The said [*client*] hereby agrees with the said [*solicitor*] that he will pay to the said [*solicitor*] or allow him to retain or receive out of the purchase-money of the said estate if sold [*or* the said property [*or* debt] the full sum of £—— [*or* a commission of £[4] per cent. (*r*) on the value of the estate [*or* property *or* debt recovered]] by way of remuneration in full for his professional services instead of requiring from him any bill of charges for such services and will also pay him all such sums of money as he shall pay allow or expend in and for fees gratuities searches stamps travelling and other expenses in and about the said business and incidental thereto.

3. The said [*client*] will with all practicable despatch furnish the said [*solicitor*] with all such documents and information as are or shall be in his possession or power relative to the said claim and give him from time to time all necessary and proper assistance in prosecuting the same without delay or hindrance.

4. The said [*solicitor*] shall not be required or compellable to deliver any bill of charges in the said business or in any matter or transaction incident or relative thereto save only an account of his expenses and disbursements aforesaid (*s*), the said sum of £—— [*or* the said commission] being intended to cover the whole of his professional charges therein save and except only such expenses and disbursements.

5. Neither the said [*solicitor*] nor the said [*client*] will make any compromise or arrangement in the said business or stay withdraw or

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(*r*) See *Rees* v. *Williams* (1875), L. R. 10 Ex. 200, where 4 per cent. seems to have been deemed reasonable ; but in *Re Attorneys and Solicitors Act*, 1870 ((1875), 1 Ch. D. 573), and *Wild* v. *Simpson*, [1919] 2 K. B. 544, agreements under which 10 per cent. was to be received in case of success, were considered invalid (but in both cases the agreements were champertous).

(*s*) If the agreement be deemed "fair and reasonable," there seems to be no need for delivering a bill of charges, one of the objects of the Act being to render it unnecessary. But it is presumed an account of the expenses and disbursements must be furnished to the client, to enable him not only to judge of their fairness and reasonableness, but also to seek his remedy if it should prove unsatisfactory.

consent to a non-suit in any action or other proceeding to be commenced as aforesaid without the express authority or consent in writing of the other of them.

6. The said [*solicitor*] shall not wilfully do or permit to be done, any act or thing whatsoever which may occasion any loss or damage to the said [*client*] or endanger or prejudice his said right or claim (*t*).

IN WITNESS, &c.

[*Signatures of both parties.*]

255.

AGREEMENT between Solicitor and Clerk (*a*).

AN AGREEMENT made the —— day of —— BETWEEN [*solicitor*] of &c. of the one part and [*clerk*] of &c. of the other part.

1. The said [*clerk*] hereby agrees with the said [*solicitor*] as follows :—

(1) Daily and every day from —— of the clock in the morning till —— of the clock in the evening [and until any later hour if and when required] the usual time allowed for taking meals only excepted diligently and faithfully and to the best of his skill and ability to serve the said [*solicitor*] as his managing [bill and accountant-clerk *or* engrossing and general clerk *or* chancery *or* common law *or* general] clerk in his practice of a solicitor at —— (*b*) for the term of —— years from the —— day of —— instant.

(2) Not at any time to absent himself from the said place of business except as his duties may require without the consent or sanction of the said [*solicitor*].

(3) Not at any time during such service or employment to waste spoil damage efface embezzle lend spend or make away with any of the deeds papers writings vouchers documents books or other property of the said [*solicitor*] or of his family friends or clients.

(4) Not at any time to disclose or divulge any concerns or transactions (private or otherwise) in or relative to the practice or affairs of the said [*solicitor*] his family friends or clients except with the previous consent of the said [*solicitor*].

(5) To be true and faithful to the said [*solicitor*] in all duties accounts transactions matters and things whatsoever confided or entrusted to him or coming to his knowledge as such clerk as aforesaid.

(6) Not directly or indirectly during such employment in any manner to do or perform any act or matter of business whatever either

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(*t*) The solicitor cannot contract himself out of liability for negligence (Attorneys and Solicitors Act, 1870 (33 & 34 Vict. c. 28), s. 7). The agreement must be fair and reasonable (*ibid.* s. 9), and it must not be for the purchase of the interest or part of the interest of the client in the subject of the agreement (*ibid.* s. 11).

(*a*) Stamp 6*d.*

(*b*) It is better to state the place of service.

for any other solicitor or for any other person or persons without the previous sanction of the said [*solicitor*].

(7) Not at any time for the space of —— years next after the determination of the engagement hereby created either directly or indirectly to enter into the service or employment of or act as an accountant [estate-agent or auctioneer] or solicit business for or recommend or in any manner assist any other solicitor residing or practising either at —— aforesaid or at any other place at which the said [*clerk*] may be placed as such clerk as aforesaid by the said [*solicitor*] or within —— miles thereof respectively.

[(7A) *If the clerk has already served under articles or has been admitted* Not on the termination of the said service or at any time thereafter during the further term of —— years without the consent in writing of the said [*solicitor*] to practise or act as a solicitor or conveyancer directly or indirectly either alone or in partnership with or as agent clerk or assistant to or otherwise in connection with any other solicitor at —— aforesaid or within a radius of —— miles thereof and not to interfere with prejudice or in any manner affect the practice or reputation of the said [*solicitor*] or solicit either personally or by or through any other person or persons whomsoever the business of the clients or connections of the said [*solicitor*] or otherwise induce them either to remove their business from him or to employ him the said [*clerk*] or any other solicitor or firm of solicitors or agent within the radius or distance aforesaid.]

2. The said [*solicitor*] hereby agrees with the said [*clerk*] that he will employ him as such clerk as aforesaid and will pay to him the annual salary of £—— for such services by equal quarterly payments in every year during the said term or during such portion thereof as the engagement hereby created shall be subsisting.

3. On the said [*clerk*] duly performing this agreement on his part and on the said [*solicitor*] being satisfied with his character and capabilities for becoming a solicitor of the Supreme Court of Judicature the said [*solicitor*] will at the expiration of the said term at the request of the said [*clerk*] and on receiving such premium as he shall then require for the same continue him the said [*clerk*] as an articled clerk for the further term of five years and will pay him an annual salary of £—— during the first year and £—— during the second year [*and* so on] by quarterly payments during the said term. [*Or if to be taken as a partner instead of the latter part of this clause substitute the following* :—And at the expiration of the said term receive him the said [*clerk*] if duly qualified into partnership upon [equal] terms with him in the said practice and in any branch or branches thereof on being paid the premium or sum of £—— for such partnership.]

4. Either party hereto may determine the said engagement at any time during the said term on giving unto the other of them —— calendar months' notice in writing for that purpose. In case of any misconduct on the part of the said [*clerk*] or of the breach of any or either of the

agreements or stipulations hereinbefore on his part contained the engagement hereby created may be immediately determined by the said [*solicitor*] without such notice.

IN WITNESS, &c.

[*Signatures of both parties.*]

TEACHING.

256.

AGREEMENT between Parent and Resident Tutor (*c*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parent*] of &c. of the one part and [*tutor*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*parent*] engages the said [*tutor*] as a private tutor to instruct his son [*name*] [*or* daughter [*name*]] in [*state subject of instruction e.g.* the rudiments of the Greek and Latin languages *or* Greek Latin French German and Mathematics] for —— months from the date hereof at the yearly salary of £—— payable monthly [*or weekly*] the first payment to be made on the —— day of —— next.

2. The said [*parents*] shall provide all necessary instruments books and materials.

3. The said [*tutor*] shall during the term of his employment reside at the house of the said [*parent*] and have the use of a separate sitting and bedroom and be entitled to board exclusive [*or* inclusive of a reasonable supply] of wine and spirits he conducting himself with decorum and propriety.

4. The said [*tutor*] hereby agrees to teach the said son [*or* daughter] of the said [*parent*] during his engagement according to the best of his ability in the subjects aforesaid each weekday during such hours as the said [*parent*] shall appoint.

5. If the said [*parent*] shall be dissatisfied with the progress of his said son [*or* daughter] under the tuition of the said [*tutor*] or if the said [*parent*] shall consider that it is undesirable that the said [*tutor*] should continue to reside with the family of the said [*parent*] he shall be entitled to determine this agreement on paying the said [*tutor*] one month's [*or* week's] salary in lieu of notice in addition to all arrears of salary then due to the said [*tutor*].

IN WITNESS, &c.

[*Signatures of the parties.*]

(*c*) Stamp 6*d*. For the law affecting schoolmasters and teachers generally, see Halsbury's Laws of England, title "Education," vol. 12, p. 122 *et seq.*, and the Encyclopædia of Forms, 2nd. Edn., vol. 13, p. 492 *et seq.*

257.

AGREEMENT between Parent and Non-Resident Tutor (*d*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*parent*] of &c. of the one part and [*tutor*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The said [*parent*] engages the said [*tutor*] to instruct his son [*name*] in [*state subject, e.g.*, drawing *or* music *or* German] for the term of —— months determinable at any time by a month's notice in writing by either party at the salary of £—— a month such instruction to be given at the dwelling-house of the said [*parent*] at —— and —— times weekly namely on [*state days of tuition*] each lesson to be of one hour's duration.

2. The said [*tutor*] hereby agrees to teach and instruct the said [*name*] according to the best of his ability in the said subject[s] at the place on the several days aforesaid during the said employment [or on such other days and hours as the said [*parent*] shall from time to time appoint].

3. The said [*parent*] shall provide a suitable room and all necessary [instruments] books and materials for the purposes of such instruction.

IN WITNESS, &c.

[*Signatures of the parties.*]

258.

AGREEMENT between Guardian and Travelling Tutor (*e*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*guardian*] of &c. (hereinafter called the employer) of the one part and [*tutor*] of &c. (hereinafter called the tutor) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The employer hereby engages the tutor to travel as private tutor with [*name of pupil*] in France and Germany [*or as the case may be*] for a period of —— months and during such period to instruct the said [*pupil*] in [*state subjects*] and in such other subjects as are usual or proper for a boy of his age and station [*or* as the tutor shall think proper for the purpose of enabling the said [*pupil*] to qualify for [*specify the particular examination, as* the matriculation examination at —— College Oxford].

2. The employer will pay the tutor during the continuance of this agreement a salary of £—— per month the first such payment to be made one week before the date fixed for the departure of the tutor and the said [*pupil*] such departure to take place during the week ending on the —— day of ——.

(*d*) Stamp 6*d*.

(*e*) Stamp 6*d*. For an alternative form, see Encyclopædia of Forms and Precedents, 2nd. Edn. vol. 13, p. 635.

3. The employer will pay to the tutor before such departure as aforesaid a sum of £—— to defray the hotel and travelling expenses of the tutor and the said [*pupil*] during the first month of their journey and will at the beginning of each subsequent month send to the tutor a like sum for the like purposes during such month. The tutor shall account to the employer for all sums received and expended by the tutor and any sum appearing by such account to be properly payable to or by the tutor shall be paid to or by him within —— days after the return of the said [*pupil*].

4. The tutor may expend such sums not exceeding the sum of £—— in any one week for the purpose of taking the said [*pupil*] to such places of instruction or amusement as are suitable for the pupil and may also in his discretion purchase such books materials and other articles as may be required from time to time for the instruction or personal requirements of the said [*pupil*].

5. The times and method of instruction to be given to the said [*pupil*] shall be in the discretion of the tutor provided that the average hours of instruction for each day excluding days spent in actual travelling shall not be less than —— hours.

6. The tutor shall at all times keep the guardian fully informed of the places of residence and the intended destinations of the said [*pupil*] and shall so far as possible follow an itinerary which has been agreed between the guardian and the tutor.

7. The tutor will at all times use his utmost endeavours to protect the said [*pupil*] from undesirable companions and diversions and in particular will select hotels or lodgings of good character.

IN WITNESS, &c.

[*Signatures of both parties.*]

259.

AGREEMENT between Parent and Resident Governess (*f*).

THIS AGREEMENT made this —— day of —— BETWEEN [*parent*] of &c. (hereinafter called the employer) of the one part and [*governess*] of &c. (hereinafter called the governess) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The employer will employ the governess to teach his [three] children in such branches of general education as are usually taught to children of their respective ages including the rudiments of the English French and German languages and also music and drawing [and any other accomplishment which the employer shall reasonably require].

2. The hours of instruction shall be —— hours daily excluding Sundays and shall be fixed by the employer.

3. The governess shall take sole charge of the said children between the hours of —— and —— each day except during her vacation.

(*f*) Stamp 6*d*.

4. The governess shall be entitled to a fortnight's continuous vacation in each year at such time as the employer shall select.

5. The employer will pay to the governess the annual salary of £—— by equal quarterly [*or* monthly] payments and except in vacations the further sum of —— shillings per week for her washing and will provide her in his dwelling-house with a separate bedroom and schoolroom with fire light and necessary attendance and with suitable board at his table as one of his family; and will provide all such instruments books and materials as she shall reasonably require for such tuition.

6. The governess will duly perform the duties aforesaid during this engagement to the utmost of her ability and conform in all respects to the reasonable requirements of the employer or his wife and the rules and regulations of his establishment.

7. This agreement may be determined at any time by either party by giving the other of them [three] months' notice in writing.

IN WITNESS, &c.

[*Signatures of both parties.*]

260.

AGREEMENT between Parent and Daily Governess (*g*).

AN AGREEMENT made the —— day of —— BETWEEN [*parties as in Form* 259, p. 460, *supra*].

WHEREBY IT IS AGREED as follows:—

1. The employer hereby engages the governess at a salary of £—— monthly for instructing his [two] children now of the respective ages of —— and —— or thereabouts in reading writing arithmetic Scripture English history and geography according to their ages and capacities respectively and to the reasonable requirements of the employer.

2. The governess hereby agrees to teach the said children every day except Sundays according to the best of her ability in manner aforesaid at the house of the employer at —— from —— o'clock in the morning till —— o'clock in the evening or during such other hours not exceeding in the whole —— hours daily as the employer shall reasonably require inclusive of the usual hours for meals.

3. The employer shall provide a private room with fire and light and attendance and all necessary books and materials for such instruction and shall provide luncheon for the governess.

4. The governess shall take the entire charge of the said children during such periods of instruction but shall not be required to accompany the said children during the hours devoted to exercise or amusement [*or* and shall if required accompany the said children during such part of the said hours as may be devoted to exercise or amusement].

(*g*) Stamp 6*d*.

5. This agreement may be determined at any time by either party giving the other of them —— weeks' previous notice thereof in writing.

IN WITNESS, &c.

[*Signatures of both parties.*]

261.

AGREEMENT between Parent and Schoolmaster (*h*).

AN AGREEMENT made the —— day of —— BETWEEN [*parent*] of &c (hereinafter called the parent) of the one part and [*schoolmaster*] of &c. (hereinafter called the schoolmaster) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The schoolmaster hereby agrees to receive and educate [*pupil*] the son of the parent in his school at —— as a boarder and scholar on the —— day of —— next and to provide the said [*pupil*] with board, lodging and washing, and tuition in the several branches of education now taught in the said school or such of them as the parent shall from time to time require but not with books instruments medicines medical attendance or any other necessaries whatever.

2. The schoolmaster will cause the said [*pupil*] to be instructed in the said school in the several branches of education as now taught therein embracing English Greek Latin French and German mathematics algebra geometry geography arithmetic writing and ancient and modern history according to the capacity of the said [*pupil*] in the class in which he shall from time to time be placed and will exercise due and proper care and supervision of the person of the said [*pupil*] and his habits and deportment.

3. The parent will pay the schoolmaster the annual sum of £—— by half-yearly *or* monthly instalments of £—— each [*or* by three instalments of £—— each payable in advance at the beginning of each term] the first such payment to be made on the —— day of —— next and to provide his said son with suitable and sufficient clothes, including the mending thereof with all such books instruments articles and things as shall be necessary either for his use and instruction as aforesaid or for his amusement and recreation and also with medicines and medical attendance and all other necessaries save board, lodgings and washing.

4. The schoolmaster shall have full authority to exercise due control over and proper chastisement of the said [*pupil*] at all times and in all respects for the purpose of enforcing due obedience and conformity to the rules and regulations of the said school.

5. The said [*pupil*] shall be allowed reasonable time for bodily exercise recreation and amusement and shall join in drill gymnastics games of cricket football or any other outdoor game when and as the schoolmaster shall consider proper but the schoolmaster shall not be responsible for any accident or other consequences which may attend such games [or occur in any other manner or upon any other occasion].

(*h*) Stamp 6*d*.

6. Either party hereto shall be at liberty to determine this agreement on giving to the other of them one term's notice in writing of his intention so to do.

7. If the said [*pupil*] shall be guilty of gross misconduct or if the schoolmaster shall consider that the continued residence of the said [*pupil*] is injurious to the other pupils at the said school he shall be entitled to require the parent to remove the said [*pupil*] forthwith.

IN WITNESS, &c.

[*Signatures of both parties.*]

262.

AGREEMENT between Parent and Schoolmistress (*i*).

AN AGREEMENT made this —— day of —— BETWEEN [*parent*] of &c. (hereinafter called the parent) of the one part and [*schoolmistress*] of &c. (hereinafter called the schoolmistress) of the other part.

WHEREBY IT IS AGREED as follows :—

1. [*Agreement to receive pupil as in Form* 261, *clause* 1, p. 462, *supra, substituting* schoolmistress *for* schoolmaster *and* daughter *for* son.]

2. The schoolmistress will cause the said [*pupil*] to be instructed in the several branches of modern education as now taught in the said school embracing the English French German and Italian languages geography arithmetic writing ancient and modern history music drawing dancing and fancy and plain needlework in the class in which she shall from time to time be placed and will exercise due and proper care and supervision of the person and habits both moral and religious deportment and carriage of the said [*pupil*] and will not allow the said [*pupil*] to absent herself at any time without leave and unaccompanied nor permit her to communicate by letter or otherwise with any persons other than her parents relations and known and approved friends.

3. The parent will pay the schoolmistress the annual sum of £—— by half-yearly [*or* monthly] instalments of £—— each [*or* by three instalments of £—— each payable in advance at the beginning of each term] the first such payment to be made on the —— day of —— next and will provide the said [*pupil*] with all such wearing apparel (including the mending thereof) and ornaments as the schoolmistress shall consider sufficient and suitable for her position in the said school and all such books and instruments (except musical instruments provided by the schoolmistress) articles and things as shall be necessary either for her use and instruction as aforesaid or for her amusement and recreation and also with medicines and medical attendance and all other necessaries except board and lodging.

4. The schoolmistress shall have full power and express authority to exercise due control over the said [*pupil*] at all times and in all respects for the purpose of requiring and enforcing, if necessary, obedience to the

(*i*) Stamp 6*d*.

rules of the said school, but not to chastise her without previous communication with the parent.

5. The said [*pupil*] shall be afforded reasonable opportunity for exercise recreation and amusements according to the regulations of the said school and shall if the parent desires and the said [*pupil*] is qualified so to do be entitled but shall not be compelled to assist in teaching pupils of a lower class [or of practising with those of a higher class in learning for the sake of improvement].

6. [*Power to determine agreement as in Form* 261, *clause* 6, p. 463, *supra.*]

IN WITNESS, &c.

[*Signatures of both parties.*]

263.

AGREEMENT between Proprietor of Private School and an Assistant Master (*k*).

AN AGREEMENT made the —— day of —— BETWEEN [*proprietor of school*] of &c. (hereinafter called the proprietor) of the one part and [*assistant teacher*] of &c. (hereinafter called the teacher) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The proprietor hereby engages the teacher to instruct the pupils in the school of the proprietor at —— in such subjects as the proprietor shall from time to time appoint [*or state subjects, e.g.* the French German and Italian languages *or* the Latin and Greek languages *or* mathematics *or as the case may be*] and also to take such part in the internal organisation and discipline of the said school as the proprietor shall from time to time direct.

2. The proprietor shall pay to the teacher during the continuance of this agreement a salary of £—— a year [*or* a salary commencing at the rate of £—— a year and rising by annual increments of £—— a year to a maximum salary of £—— a year]. Such salary shall be paid by equal instalments at the end of each school term [*or* monthly, but so that the proportion of salary payable in respect of months during which the said school is in vacation shall be paid in advance at the end of the term preceding such vacation].

[2A. *If the teacher is to reside in the school* The proprietor shall also provide the teacher free of cost with a private [sitting-room and] bedroom and full board and laundry during school terms.]

3. The hours during which the teacher shall give tuition shall not exceed —— hours per day on Mondays Tuesdays Thursdays and Fridays and —— hours per day on Wednesdays and Saturdays. On Sundays the teacher may be required to give religious instruction for one hour. The hours of tuition shall be fixed by the proprietor. PROVIDED that the

(*k*) Stamp 6*d.*

teacher shall not be bound to teach except by way of supervision of preparatory lessons before the hours of 9 a.m. or after the hour of 7 p.m.

4. In addition to the duties of teaching organisation and discipline hereinbefore mentioned the teacher shall when required so to do supervise and direct the regular games and pastimes of the pupils.

5. The teacher shall use his best endeavours to maintain discipline among the pupils but shall not be entitled to personally chastise any pupil without the sanction of the proprietor.

6. The teacher shall observe the rules and regulations for the time being made by the proprietor for the conduct of the said school and the instruction and management of the pupils and shall at all times act loyally and faithfully towards the proprietor.

7. If the teacher shall for any period be incapacitated by sickness accident or other unavoidable cause from performing his duties he shall nevertheless be entitled to full salary during such period [less such sum (if any) as shall be paid to any substitute appointed to perform such duties during such period].

8. This agreement may be determined at the end of any school term by either party giving to the other notice in writing to that effect within two weeks after the beginning of such term or at any time by the proprietor paying to the teacher in addition to the proportion of his salary due to the date of such determination one [third] of the said yearly salary. In the case of [flagrant] misconduct on the part of the teacher the proprietor may determine this agreement forthwith without notice or compensation in lieu of notice on paying the teacher the proportion of salary due to the date of determination.

9. During the continuance of this agreement and for a period of [10] years after its determination the teacher shall not directly or indirectly carry on or be interested or employed in any school within a radius of [50] miles of the proprietor's said school or teach or assist in teaching any pupils [except as a private tutor living in the house of his employer] within such radius as aforesaid.

IN WITNESS, &c.

[*Signatures of both parties.*]

264.

AGREEMENT between Farmer and Parent of Farm Pupil (*l*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*pupil*] of &c. a minor of the age of [19] years (hereinafter called the pupil) of the first part [*parent*] of &c. (hereinafter called the parent) of the second part and [*farmer*] of &c. (hereinafter called the farmer) of the third part.

WHEREAS the pupil being desirous of acquiring a practical knowledge of agriculture the parent has applied to the farmer to receive the pupil

(*l*) Stamp 10*s*.

as an indoor pupil [without premium] which he has consented to do upon the terms and conditions hereinafter stated.

NOW THESE PRESENTS WITNESS as follows :—

1. The pupil of his own free will and with the approbation of the parent hereby binds himself to serve after the manner of an apprentice the farmer from the date hereof for the term of —— years next ensuing to be taught and instructed in the practice science and business of agriculture and all matters and things whatsoever relating thereto and connected therewith according to the best and most improved system as now followed and practised by the farmer.

2. The pupil during such term shall reside with the farmer and diligently and faithfully employ himself in all matters of the said business and obey and perform the directions of the farmer therein and will not at any time absent himself from the said business by day or night or from the residence of the farmer without his express permission and will at all times and in all respects conduct himself in a proper manner as an inmate of the household towards the farmer his wife family friends and servants and according to the domestic rules and regulations of the farmer.

3. The farmer will receive the pupil into his house as an indoor pupil and as one of his family and will teach and instruct him in the character of an apprentice in the science practice and business of an agriculturist and all things relating thereto in the best and most improved manner as followed and practised by the said farmer according to the best of his ability from the day of the date hereof during the said term.

4. The farmer will during such term treat the pupil in all respects as an [indoor boarding] pupil and with proper care control and kindness and as one of his family and will provide him with a separate bedroom [and a separate sitting-room when necessary for reading study and other proper purposes.]

5. The farmer will provide the pupil with good and sufficient meat and drink [except *or* including a reasonable allowance of wine beer and spirits] at his table.

6. The parent [who has already paid the farmer a premium of £—— the receipt whereof the farmer hereby acknowledges] will pay to the farmer the yearly sum of £—— for the board and lodging of the pupil as aforesaid by half-yearly payments to be computed from the date hereof, during the said term and will provide the pupil with suitable and sufficient clothes medicine medical attendance [wine, beer, and spirits] pocket money and laundry expenses and all other necessaries whatsoever except board and lodging.

7. The parent undertakes with the farmer that the pupil will conduct and demean himself in all respects according to the stipulations on his part and in reference to him hereinbefore contained.

8. If the pupil shall commit any breach of any stipulations hereinbefore contained to be observed and performed by him it shall be lawful for the farmer to determine this agreement by giving or sending to the address of the parent —— days' notice in writing for that purpose. Upon receipt of such notice the parent shall make arrangements for the removal of the

pupil from the farmer's dwelling-house within the time specified in such notice. In case of wilful misconduct of the pupil the farmer may require the pupil to quit his said dwelling-house within twenty-four hours but shall in such case give immediate notice [by telegram] to the parent and shall at the expense of the parent procure suitable lodging elsewhere for the pupil until the parent can remove the pupil.

9. In the event of the determination of this agreement in manner mentioned in clause 8 hereof the parent shall pay the farmer the due proportion of the said yearly sum of £—— in respect of the period since the last half-yearly payment up to the day of the removal of the pupil and all expenses incurred by the farmer on behalf of the pupil up to such day.

IN WITNESS, &c.

[*Signatures and seals of all parties.*]

MISCELLANEOUS AGREEMENTS.

265.

AGREEMENT for Supply of Gas to a Manufactory by a Gas Company (*m*).

AN AGREEMENT made the —— day of —— BETWEEN [*agent*] of &c. agent for [*Gas Company*] (hereinafter called the company) of the one part and [*manufacturer*] of &c. of the other part.

WHEREBY IT IS AGREED as follows :—

1. The company will at their own expense in all things on or before the —— day of —— next make the necessary excavations provide the necessary pipes and other materials and lay down the same and perform all other works which may be necessary for conveying gas from their gas-works to and into such parts of the manufactory of the said [*manufacturer*] at —— aforesaid as he shall require.

2. The company will daily and every day supply at and during the times required to the said manufactory so much pure gas as the said [*manufacturer*] shall require for the purpose of carrying on his business therein at the rate of —— shillings per therm [*or* thousand cubic feet] such quantities to be ascertained by an [accurate] meter to be placed in the said manufactory or near thereto on the premises of the said [*manufacturer*]. The meter shall remain the property of the company and the said [*manufacturer*] shall pay to the company a rental at the rate of —— shillings per [quarter] for the same.

3. The said [*manufacturer*] will pay or cause to be paid to the company at their office at —— for the gas so to be supplied, and for the rental of the

(*m*) No stamp. Gas companies usually require the consumer to sign a printed form of agreement drawn up in accordance with their statutory rights and remedies. For forms see Encyclopædia of Forms and Precedents, 2nd. Edn. vol. 18, pp. 348 *et seq.* They sometimes demand a deposit before laying the gas on, and also make a quarterly charge for the use of one of their meters, but in the absence of a regular form the above may serve as a guide to the required clauses.

said meter at the rates aforesaid, by [quarterly] payments during the continuance of this contract.

4. The gas so to be supplied to the said [*manufacturer*] shall not nor shall any part thereof be given sold or supplied by him to or suffered to be taken or used by any other person or persons whomsoever or be used or applied to any other purpose than for the sole and proper use of and in his said business in and on his said manufactory and premises.

5. In default of payment of the sums to become payable for the said gas and meter rental as aforesaid for the space of —— days next after the same shall become due as aforesaid or on breach of any agreement on the part of the said [*manufacturer*] the company and their servants shall be at full liberty thereupon, or at any time hereafter to discontinue to supply the said gas and to sever and remove the meter and the pipes and materials so laid down and used for the purposes aforesaid and likewise for such and every other lawful and reasonable purpose to enter without hindrance or interruption, into and upon the said manufactory and premises at all reasonable times during the hours of business they remaining there no longer than may be necessary for the purposes aforesaid, and doing no unnecessary damage to the said premises and where altered by them restoring the same as nearly as may be to their former state and condition.

6. Either party shall be at liberty to determine this agreement by one [calendar month's] notice in writing to the other of them.

IN WITNESS, &c.

[*Signatures of manufacturer and agent.*]

266.

AGREEMENT to oppose a Railway Bill, and to pay the Expenses proportionally (*n*).

MEMORANDUM OF AGREEMENT made BETWEEN the several persons whose names are hereunto respectively subscribed being persons likely to be aggrieved by the bill in Parliament hereinafter mentioned.

WHEREAS a petition has been lately presented to the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled by the several proprietors and owners of certain lands and hereditaments within the parish [*or* district] of —— in the county of —— praying that leave might be given to bring in a bill for constructing and opening a railway through our lands at —— aforesaid [*or according to the title of the bill as given in the notice*]

AND WHEREAS the bringing in of such a bill and obtaining an Act for such purpose will be highly injurious to us, the undersigned owners and proprietors of and persons, otherwise interested in the said lands.

(*n*) Stamp 6*d*.

NOW WE whose names are hereunto subscribed being owners and proprietors of and persons otherwise interested in the said lands and hereditaments through which the said railway is intended to pass within the said parish [*or* district] being likely to be affected and aggrieved by the said bill hereby agree each with the other of us that we will jointly oppose the said bill whenever the same shall be presented to Parliament and that such opposition shall be conducted by [*solicitor*] of &c. as our solicitor and agent in that behalf and that the costs damages and expenses attending such opposition shall be borne and defrayed by us rateably and proportionally according to the value of our respective estates and interests in the lands and hereditaments in the parish aforesaid affected by the said bill such valuation to be ascertained by two competent persons to be chosen by the said [*solicitor*] [*or* to be estimated according to the valuation of our respective lands and hereditaments as taken and made for regulating and fixing the general rate of the said parish [*or* intended to be taken for the purpose of the said railway or affected thereby]].

WITNESS our hands this —— day of —— 19—.

[*Signatures and addresses of all parties.*]

267.

AGREEMENT for Sale of a Ship (*o*).

THIS AGREEMENT made the —— day of —— BETWEEN [*vendor*] of &c. (hereinafter called the vendor) of the one part and [*purchasers*] all of &c. merchants and co-partners trading under the firm of —— & Co. (hereinafter called the purchasers) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The vendor will sell to the purchasers and the purchasers will purchase at the sum of £—— free from all charges and incumbrances ALL THAT the said ship or vessel [*or* steamship *or* schooner *or* brig *or* yacht *as the case may be*] called " The —— " whereof —— is master now lying in the port of —— a full description whereof is contained in the copy of the certificate of her registry contained in the Schedule hereto TOGETHER with all the [screw-machinery funnels gear implements utensils] masts sails sail-yards spars anchors cables compasses chains ropes cords stanchions tackle apparel [boat's oars] utensils and appurtenances whatsoever to the said vessel belonging or in anywise appertaining WHICH said vessel has been duly registered pursuant to the Act of Parliament in that behalf at —— aforesaid as appears by the said register.

2. The purchase shall be completed at the office of the vendor at —— aforesaid on the —— day of —— next at —— o'clock in the [fore] noon when the said purchase-money shall be paid and on payment thereof

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(*o*) No Stamp. See Stamp Act, 1891, " General Exemptions," No. 2. This agreement is only suitable for very simple cases. For more elaborate forms of agreement respecting the sale of ships, see Encyclopædia of Forms and Precedents, 2nd Edn. vol. 17, p. 48 *et seq.* See also *Behnke* v. *Bede Steam Shipping Co.*, (1927) 96 L. J. K. B. 325, as to specific performance of such agreement.

possession of the said ship or vessel shall be duly given and a bill of sale thereof to the purchasers duly executed and registered according to law.

IN WITNESS, &c.

THE SCHEDULE ABOVE REFERRED TO.

(*Here insert an exact copy of the registry of the ship.*)

[*Signatures of all parties.*]

268.

AGREEMENT by Part-Owners of a Ship to pay their Proportions of Bill drawn by the Master (*p*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*owners of shares*] of &c. of the one part and [*owners of remaining shares*] of &c. of the other part.

WHEREAS the parties hereto of the one part are owners of —— shares, and the parties hereto of the other part are owners of —— shares of and in the ship called "The ——," of the burthen of —— tons register [or thereabouts] whereof —— is master belonging to the Port of —— and the said ship or vessel is now bound on a voyage to ——.

NOW THESE PRESENTS WITNESS that the said several parties hereto hereby (*q*) mutually agree with each other for themselves and their respective executors and administrators [but not jointly, nor any one for the other or others of them] that they will divide and pay or cause to be paid unto the other or others of them, according to their said respective shares of and in the said ship [and cargo] of all such sum and sums of money as shall become due upon or by virtue of any bill or bills which shall or may be drawn upon them the said respective owners and accepted by the master for the time being of the said ship during her said intended voyage without fraud or covin for or on their account or on account of the said ship [and cargo] or for the necessary purposes or in respect of the said voyage when and as any such bill or bills shall from time to time become payable and demand thereof shall be made to them or either of them respectively And the said master shall have full power, and he is hereby expressly authorised to accept all or any such bill or bills as shall be drawn upon them respectively for or on account of the said ship [and cargo] or the said parties hereto or either of them respectively in respect thereof during the said voyage and which the said master shall in his discretion think just and proper to be accepted on their behalf during the said voyage for the purposes of the said ship [and cargo] respectively.

IN WITNESS, &c.

[*Signatures of all parties.*]

(*p*) Stamp 6*d*.

(*q*) These parties having mutual interests in the subject-matter of this agreement, no other consideration need be shown upon the face of it, to render it binding. As to the right of part-owners, in spite of an agreement of this nature, to obtain, in an action of restraint, bail from the other part-owners in the value of the shares of the former, see *The England* (1886), 12 P. D. 32.

269.

AGREEMENT for Building a Ship (*r*).

THIS AGREEMENT is made the —— day of —— BETWEEN [*builder*] of &c. (hereinafter called the builder) of the one part and [*purchaser*] of &c. (hereinafter called the purchaser) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The builder will at his own expense construct and build for the purchaser at —— in a skilful and workmanlike manner with the best and soundest materials and in accordance with Lloyd's rules and with a view to classification when finished in Lloyd's registry as A1 a sailing ship or vessel of the description and dimensions and in the manner particularly designated and described in the plan diagrams and specifications hereunto annexed.

2. The builder will on or before the —— day of —— unless prevented by strikes accidents weather or other cause beyond the builder's control complete the ship in all respects fit and ready to be launched and will carefully launch her on that day or as soon afterwards as weather and other circumstances will permit and the purchaser shall require and will either safely moor and secure her at —— or at the expense in all things of the purchaser remove her from thence to and safely moor her in such other place as the purchaser shall in writing direct.

3. The builder will immediately after the said ship shall be so safely launched and moored as aforesaid and upon due payment of all money hereinafter agreed to be paid at the request and expense in all things of the purchaser duly assign and transfer the said ship to him and cause the same to be duly registered according to law in his name or in the name or names of such person or persons as he shall appoint free from all charges and incumbrances whatsoever.

4. The purchaser will pay the builder £—— as the price for the said ship whereof £—— shall be paid on the execution of this agreement and the residue of £—— shall be paid upon receiving the certificates of [*marine surveyor*] of &c. the surveyor appointed by the purchaser for superintending on his behalf the building of the said ship showing from time to time the due completion of the work according to the said plans diagrams and specifications at the times and in manner following namely, £—— upon laying the keel of the said ship £—— when the said ship is built up and planked to the top of the gunwale and £—— when the said ship has been safely moored and launched and transferred as specified in clause 3 hereof.

5. Immediately upon payment of the said sum of £—— [*first instalment*] the said ship and all materials for the time being affixed thereto or being part thereof shall become the absolute property of the purchaser (*s*)

(*r*) No Stamp. See Encyclopædia of Forms, 2nd Edn., vol. 17, p. 42.

(*s*) Under a contract to build and sell a ship no property in the ship passes to the purchaser in the absence of express stipulation until the ship is completed (*Laidler* v. *Burlinson* (1837), 2 M. & W. 602 ; *Laing* (*Sir James*) *& Sons, Ltd.* v. *Barclay Curle &*

but without prejudice to the lien of the builder for any unpaid instalments (*t*). For the protection of the purchaser the builder shall so soon as the keel is laid mark thereon in a distinctive manner the name of the said ship and the name of the purchaser (*a*).

6. Until the delivery of the said vessel the builder shall keep the same or so much thereof as shall for the time being have been built insured in a sum exceeding the amount of the instalments paid by the purchaser in the joint names of the builder and the purchaser in some insurance company to be approved by the purchaser and will deposit such policies with the purchaser and at all times produce to him the receipts for premiums. All moneys received in respect of the said policies shall be forthwith applied in rebuilding the said ship. In the event of any default by the builder in carrying out the terms of this clause the purchaser may himself effect insurance and deduct all expenses incurred thereby from future instalments of the purchase price.

7. The ship shall not be deemed to be complete until a trial trip thereof has been conducted at the builder's expense in all respects to the satisfaction of the purchaser's surveyor for the time being who shall prescribe the duration and conditions of such trial trip.

8. If the builder shall fail to proceed continuously with the construction of the said ship for a period of —— weeks after a written notice to proceed has been sent to him by the purchaser by registered post to his last known place of address, the purchaser, his agents or workmen or any builder or person he may choose to employ may enter the premises of the builder or any part thereof and make use of the said premises and the builder's tools machinery and appliances for the purpose of completing the said ship without compensation to the builder and may deduct from the unpaid balance of the purchase price all expenses incurred in so doing and if such balance shall be insufficient may recover the same from the builder as a debt payable on demand.

9. Any extras ordered by the purchaser or his surveyor in writing shall be paid for by the purchaser at the actual market price of the materials and labour employed plus —— per cent. thereof for the builder's profit but the builder shall not be entitled to charge for extras not so ordered. The price for any extras so ordered shall be paid to the builder at the time of payment of the instalment next ensuing after the particular work has been completed.

10. The builder will replace or repair any defects in the said ship which shall be discovered within —— months after delivery and shall

---

Co., Ltd., [1908] A. C. 35; see Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 18). It seems that if the contract is for the sale of a completed ship a clause that all materials on the builder's premises appropriated for but not actually affixed to the ship shall be the purchaser's property is ineffectual (*Seath* v. *Moore* (1886), 11 App. Cas. 350; *Reid* v. *Macbeth and Gray*, [1904] A. C. 223).

(*t*) As to builder's lien for work done to a ship, see *Re Westlake, Ex parte Willoughby* (1881), 16 Ch. D. 604, and cases there cited.

(*a*) See *Re Lindsay, Ex parte Lambton* (1875), L. R. 10 Ch. App. 405, 406. As to reputed ownership of ships, see Halsbury's Laws of England, title "Building Contracts," vol. 3, p. 263.

not be fairly attributable to any collision or accident happening after delivery.

11. If the said ship shall not be delivered to the purchaser on the —— day of —— and such delay shall not be caused by non-payment of any instalment of the purchase-money or the execution of any extra work ordered as mentioned in clause 9 hereof or by strikes accidents weather or other causes beyond the builder's control the builder shall pay the purchaser £—— a day throughout the period of such delay as liquidated damages and the purchaser may if he so desire deduct the amount of such damages from any instalment of the purchase-money.

12. If the purchaser shall make default in payment of any instalment of the purchase-money for —— weeks after the due date of payment and such default shall not be caused by any act or omission on the part of the builder in carrying out the terms of this agreement or otherwise the purchaser shall pay the builder interest on all instalments so in arrear until payment at the rate of £6 per cent. per annum and if such default shall continue for a period of —— months the builder may by notice in writing sent by registered letter to the purchaser's last known place of address rescind this contract and sell the said ship or so much thereof as shall then be built and may recover any loss on such resale from the purchaser as liquidated damages.

13. The builder shall not be entitled to assign or sublet the burden of this agreement or any work to be done by him hereunder.

14. If any difference shall arise between the parties hereto or those claiming under them as to the construction and meaning of this agreement or to the said plans, diagrams and specifications hereto annexed or as to anything to be done pursuant to the same or any of them the difference shall be referred to Mr. —— of &c. marine architect or him failing to Mr. —— of &c. marine architect whose decision shall be binding on all parties to the difference.

AS WITNESS, &c.

[*Signatures of both parties.*]

270.

AGREEMENT for Sale of Concessions and other Foreign Property to a Limited Company (*b*).

AN AGREEMENT made the —— day of —— BETWEEN the —— Company, Limited (hereinafter called the vendor company) of the one part and —— Company Limited (hereinafter called the purchasing company) of the other part.

WHEREAS the purchasing company was duly incorporated on the —— day of —— under the Companies Acts 1908 to 1917, with a capital of [500,000] shares divided into [500,000] shares of [one] pound each

(*b*) Stamp 10*s*.

AND WHEREAS one of the objects specified in the memorandum of Association of the purchasing Company is the adoption and carrying into effect either with or without modification of this agreement.

NOW IT IS HEREBY AGREED as follows :—

1. The vendor company will sell and the purchasing company will purchase the following properties and rights all of which are locally situate out of the United Kingdom namely the mines mining rights concessions and properties in the State of —— more particularly described in the Schedule hereto and all the rights and obligations of any provisional or other agreements for the acquisition by the vendor company from the Government of the said State or any other company or person in the said State to which the vendor company is entitled for or in respect of (1) mining plant machinery and appurtenances (2) Mending timber or fuel areas or rights of cutting timber or fuel (3) Surface rights and rights of way (4) Water rights and watercourses and rights to water power and (5) Any other easements rights or privileges necessary or convenient for the purpose of carrying on mining operations in the said State.

2. The consideration for the said sale shall be £[30,000], of which the sum of £[5000] shall be paid to the vendor company in cash or fully paid shares or partly in cash and partly in fully paid shares at the option of the vendor company, and the residue shall be satisfied by the purchasing company allotting to the vendor company or its nominees of [25,000] shares of £[1] each fully paid up in the capital of the purchasing company such shares to be numbered 1 to —— inclusive.

3. The properties specified in the Schedule hereto are sold free from all incumbrances except the obligations required to be performed and observed by the terms and conditions under which the mining titles affecting the same are granted by the Government of the said State of ——.

4. The title of the persons from whom the vendor Company purchased the properties specified in the Schedule hereto having been recently examined and approved by [*foreign lawyer*] on behalf of the vendor company the purchasing company shall accept the title of the vendor company thereto without objection.

5. On completion of the present purchase the vendor company will assign or transfer or procure to be assigned or transferred the properties specified in the Schedule hereto to the purchasing company or if the laws of the said State of —— prohibit the purchasing company from holding the said properties in their own name to such trustees for the purchasing company as the purchasing company shall direct and upon such assignment or transfer the purchasing company shall if required covenant with the vendor company or with such person or persons as the vendor company shall direct to perform and observe all the obligations required to be performed and observed by the terms and conditions of the concessions under which such properties are held.

6. The purchasing company shall take over the said properties on the —— day of —— next, as from which date all moneys properly expended

and acts done by the vendor company in connection with the maintenance, working or development of the mines and mining rights hereby sold including the reasonable remuneration of all managers and officials directing or superintending the work at such mines and the wages of all miners workmen and servants employed therein shall be deemed to have been expended and done by the vendor company as agent for the purchasing company and on completion of the purchase the vendor company shall be entitled to repayment by the purchasing company of all such moneys and to an indemnity against all liabilities incurred by them as such agent aforesaid.

7. Immediately after the execution of this agreement the purchasing company shall allot to [*vendor to the vendor company*] [20,000] fully paid shares in the capital of the purchasing company numbered 1 to [20,000] inclusive being part of the [25,000] shares mentioned in clause 2 hereof and shall deposit duly sealed certificates for such shares with the —— Bank in London and instruct such bank to remit the same to its branch office in the State of ——. Such certificates shall be retained by the said branch office to the order of [*attorneys of vendor company and purchasing company*] until the execution and completion of a valid and effective transfer of the properties specified in the Schedule hereto pursuant to clause 5 hereof. Upon such execution and completion the said [*attorneys*] shall deliver the said certificates to the said [*vendor*].

8. Upon receipt by the purchasing company of advice by cable from the manager of the said branch bank transmitted through the said bank in London stating that the transfer aforesaid has been duly executed and completed the purchasing company shall allot and issue to the vendor company or its nominees as fully paid such shares as the vendor company is entitled to require under clause 2 hereof other than the said [20,000] shares to be allotted under clause 7 hereof and shall pay to the vendor company the whole or such part of the said sum of £[5000] as the vendor company shall elect to receive in cash.

9. In respect of all shares to be allotted pursuant to clauses 7 and 8 hereof the purchasing company shall fulfil the requirements of Section 88 of the Companies Consolidation Act, 1908, and for the purpose of constituting this agreement the title of the said [*vendor*] to the shares specified in clause 7 hereof the vendor company shall be deemed to enter into this agreement as trustee for the said [*vendor*].

10. The vendor company shall bear and pay all costs charges and expenses of and incidental to the negotiation preparation and execution of this agreement and the memorandum and articles of association of the purchasing company and of the registration thereof and all stamp duties fees and preliminary expenses whatsoever of and incidental to the incorporation of the purchasing company and otherwise incurred down to the date of such incorporation. Any moneys due to the purchasing company under this clause may if neccesary be set off against any cash which under clause 2 hereof the purchasing company is or may be liable to pay and if and so far as the same are not so set off shall be payable on demand.

11. This agreement shall be construed and take effect according to the laws of England.

IN WITNESS whereof the respective common seals of the vendor company and the purchasing company have been hereunto affixed the day and year first above written.

THE SCHEDULE ABOVE REFERRED TO.

[*Particulars of concessions and properties sold.*]

[*Common Seals of both Companies.*]

271.

AGREEMENT for an Electric Overhead Cable (*c*).

AN AGREEMENT between the —— (hereinafter called the company) of the one part and —— of —— in the county of —— (hereinafter called the landowner) of the other part.

WHEREBY IT IS AGREED as follows :—

1. The landowner grants to the company permission to place maintain and use an electric line above ground across certain land belonging to the landowner situate in the parish of —— in the Rural [Urban] District of —— in the county of —— on the conditions hereunder written which conditions shall form part of this agreement.

2. The company shall pay to the landowner as rental for the wayleave the following annual sums in respect of each [double] pole erected or stay placed on the land of the landowner :—

(1) A sum of —— shillings per [double] pole which impedes ploughing operations, made up as follows :—

—— shillings as rent for the site of the pole and —— shillings as compensation for interference with agriculture.

(2) A sum of —— shillings per [double] pole which impedes the mowing of grass, made up as follows :—

—— shillings as rent for the site of the pole and —— shillings as compensation for interference with agriculture.

(3) A sum of —— shillings per [double] pole in other cases.

(4) A sum of sixpence per stay.

Such sums to be paid by half-yearly instalments in advance on the [25th] day of [March] and the [29th] day of [September] in each year.

On the erection of each pole a proportion of such annual payment applicable to the period up to the [25th] day of

(*c*) Stamp 1*s*. as a lease. This precedent is based on a form kindly supplied by Lt.-Col. G. C. Stowell, of the Electric Supply Corporation, Ltd., of 424, Salisbury House, E.C.2.

[March] or the [29th] day of [September] next succeeding shall immediately become payable.

Dated this —— day of —— 19—.

SIGNED for and on behalf of the —— by —— the Secretary of the Company, duly authorised, in the presence of ——. [*Signature of Secretary.*]

Witness [*Signature, address and occupation*].

SIGNED by the above-named —— in the presence of ——. [*Signature of Landowner.*]

Witness [*Signature, Address and Occupation*].

CONDITIONS ABOVE REFERRED TO.

(1) The electric line shall be placed above ground across the land of the Landowner as near as may be along the route on the plan annexed hereto.

(2) The officials of the Company may for the purpose of placing, maintaining and using the electric line enter on the land of the Landowner at such time or times as shall be reasonably necessary.

(3) The Company shall maintain and keep the electric line in good repair.

(4) The Company shall make good any damage caused by them to the Landowner and to the crops and buildings thereon as the same shall be mutually agreed or in the event of difference of opinion as shall be determined by an arbitrator to be mutually appointed.

(5) The Company may on giving three days' notice to the Landowner fell or lop any tree which obstructs or interferes or will obstruct or interfere with the working of the electric line and the Company shall pay to the Landowner for any tree which may be felled by the Company such reasonable compensation as shall be mutually agreed or in the event of a difference of opinion as shall be determined by an arbitrator to be mutually appointed.

(6) The Company may remove the electric line or any part thereof upon giving the Landowner one calendar month's notice in writing.

(7) If the Landowner shall consider it necessary that the electric line or any part thereof should be diverted at any time to permit the erection of buildings the Company shall on reasonable notice divert the electric line or any part thereof at their own expense to such new route on the land of the Landowner as may be mutually agreed or in the event of difference of opinion as shall be determined by an arbitrator to be mutually appointed. In the event of the electric line being so diverted the terms and conditions of this Agreement shall apply to the electric line as so diverted.

(8) This Agreement may be determined by one year's written notice on either side.

(9) The expression "electric line" shall have the same meaning as in the Electricity (Supply) Acts, 1882 to 1926, and for the purpose of this Agreement shall include the number of poles shown on the said plan and where necessary stays for supporting and guards for protecting such poles.

(10) The Arbitration Act, 1889, or any statutory amendment or modification thereof for the time being in force shall apply to any arbitration under this Agreement.

272.

AGREEMENT for an Electric Cable below ground (*d*).

AN AGREEMENT between the —— (hereinafter called the company) of the one part and —— of —— in the county of —— (hereinafter called the landowner) of the other part.

WHEREBY IT IS AGREED as follows:—

1. The landowner grants to the company permission to place maintain and use an electric line below ground across certain land belonging to the landowner situate in the parish of —— in the Rural [Urban] District of — in the county of —— on the conditions hereunder written which conditions shall form part of this Agreement.

2. The company shall pay to the landowner as rental for the wayleave an annual sum of —— shillings for each —— hundred yards or part thereof of the route of such electric line. The said sum shall be paid yearly in advance on the [25th] day of [March] in each year.

3. On the laying of each —— hundred yards of the route of such electric line a proportion of such annual payment applicable to the period up to the [25th] day of [March] next succeeding shall immediately become payable.

Dated this —— day of —— 19—.

SIGNED for and on behalf of the —— by —— the Secretary of the Company, duly authorised, in the presence of ——. [*Signature of Secretary.*]

Witness [*Signature, Address and Occupation*].

SIGNED by the above-named —— in the presence of ——. [*Signature of Landowner.*]

Witness [*Signature, Address and Occupation*].

CONDITIONS ABOVE REFERRED TO (*e*).

(*d*) See note (*c*) on p. 476, *supra*.

(*e*) These conditions will be similar to those on p. 477, *supra* (omitting from clause 9 the words "and for the purpose of this agreement" down to the end of the clause).

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